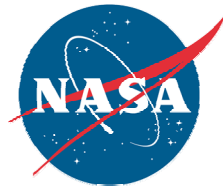


National Aeronautics and Space Administration's

Source Selection Guide Source Evaluation Boards

June 2007



Important Notice: This document has been prepared as guidance to individuals involved in the Source Evaluation Board (SEB) process and is subject to change. It is fully consistent and compliant with parts of the Federal Acquisition Regulations (FAR) and the NASA FAR Supplement (NFS). In the event of an apparent conflict between this Guide and the FAR/NFS, the FAR/NFS will govern and take precedence.

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INTRODUCTION

The acquisition of goods and services is among the most important activities that NASA performs and demands our best management efforts. The acquisition system we use must be such that individuals performing within it are challenged to high standards of performance because they know that their efforts contribute to and form part of the Government's decision-making process.

The source evaluation and selection process covered by this guide is intended to emphasize the use of sound business judgment in the source evaluation process. This guide also emphasizes the responsibility which line and staff management retains to assure the Source Evaluation Boards (SEBs) conduct their activities impartially, effectively, and efficiently in ways which will accomplish the Government's source selection process.

This process provides for an equitable and comprehensive evaluation of all offerors' proposals to assist the Source Selection Authority (SSA) in selecting the proposal which is most advantageous to NASA. This Guide addresses the acquisition process from initial acquisition planning through selection/award and debriefings/protests. This guide is intended to provide a frame work that builds consistency and allows for flexibility that facilitates thoughtful and appropriate source evaluations and selection decisions. This guide is not a substitute for the mandatory compliance with the Federal Acquisition Regulation (FAR) and NASA FAR Supplement (NFS). The source selection process must be in accordance with the policies and procedures of the FAR and NFS. Deviations from the FAR and NFS may be authorized only by the Assistant Administrator for Procurement.

This is an internal reference tool for all personnel involved in the competitive acquisition process for SEBs which provides policies, procedures, guidelines, and captures lessons-learned. Failure to follow the guide shall not provide any third party with any substantive right to challenge a selection. To assist the users of this guide, numerous links and templates are provided throughout the different sections.

Throughout the guide there are references to various sections of the FAR and NFS, as well as, NASA Procurement Information Circulars (PIC), and other NASA policies, procedures, and guidance. All of these references may be obtained from the Contracting Officer assigned to the specific acquisition or via the NASA Procurement Library at <http://ec.msfc.nasa.gov/hq/library/library.html>

This guide does not address Assistance Agreements (see the Grant and Cooperative Agreement Handbook, NPR 5800.1); Broad Agency Announcements (BAA) such as Announcements of Opportunity (AO), NASA Research Announcements (NRA), Cooperative Agreement Notices, Architect-Engineer (A&E) services, or other forms of announcements approved by the Deputy Chief Acquisition Officer (see NFS 1835.016); OMB Circular A-76; Joint Sponsored Research Agreements (JSRA); Interagency Agreements (see NFS 1817.72); Sole Source actions; SBIR/STTR requirements, and Unsolicited Proposals.

SECTION 1.0 ACQUISITION PLANNING

GENERAL INFORMATION:

A number of acquisition related initial steps occur prior to the formal establishment of a Source Evaluation Board (SEB). It is advisable to begin pre-SEB activities at least 18 to 24 months prior to the need date for contract award. These initial acquisition activities can generally fall under a broad category of Acquisition Planning. NASA is required to perform acquisition planning, (FAR Part 7) and conduct market research (FAR Part 10) for all acquisitions. This is done to facilitate full and open competition (FAR Part 6) and to promote and provide for acquisition of commercial items or non-developmental items to the maximum extent practicable. This planning integrates the efforts of all personnel responsible for significant aspects of the acquisition. The purpose of this planning is to ensure that the Government meets its needs in the most effective, economical, and timely manner. The NASA Procurement Library provides information relative to these initial planning activities at the following site: <http://ec.msfc.nasa.gov/hq/library/v-pre-sol.htm>. Below is a list of individual activities associated with the Acquisition Planning process. Several of these activities are concurrent with, or dependant upon, each other and thus the activities are not necessarily listed in sequential order. NASA FAR Supplement (NFS) Subpart 1807 prescribes a minimum set of schedule milestones to be addressed in an acquisition plan. See Attachment A which provides an example of a detailed SEB schedule relative to the activities described in this guide.

ACQUISITION PLANNING ACTIVITIES

1.1 IDENTIFICATION OF REQUIREMENT

The initial step in any acquisition is the identification of the requirement. A requiring organization that identifies a need for an acquisition effort (whether it be a new, changed or continuing requirement), should consult with the appropriate Installation Procurement Office as soon as possible to initiate a continuing dialogue relating to the requirement and the needs of the organization. The requiring organization is responsible for identifying its requirements clearly and concisely. As discussed further in Section 3, requirements should, to the maximum extent practicable, be defined as performance based specifications/statements of work that focus on required outcomes or results, not methods of performance or processes. Market research (See Paragraph 1.10) and development of the specification/statement of work further define the requirement and provide a clear understanding of what is needed. The requirement must be stated in a reasonably definite manner so that offerors can propose the cost/price of the effort.

1.2 ACQUISITION FORECAST

As required in NFS 1807.72, it is NASA policy to prepare an annual acquisition forecast and semiannual update of expected contract opportunities for each fiscal year. Their purpose is to alert entities outside the Installations of upcoming acquisitions. The acquisition forecasts for

each Installation are available on the NASA Acquisition Internet Service website (<http://procurement.nasa.gov/cgi-bin/nais/forecast.cgi>). Requiring organizations submit their forecasts to the Procurement Office for inclusion in the updates. The acquisitions, which are defined in very general terms, are placed on the Installation's acquisition forecast where they may be viewed by representatives of Industry and Government. Normally, this action results in several inquiries and requests for "marketing" meetings with the requiring organization. As much as practicable, such requests should be granted.

1.3 CONSOLIDATED CONTRACTING INITIATIVE ANALYSIS

Review of the Consolidated Contracting Initiative (CCI) automated listing in relation to the requirement provides a means of determining if a Government contract vehicle is already in place that could satisfy the anticipated requirement (see NFS 1807.70). Also, placing the requirement on this list enables other Government entities contemplating a similar requirement to join forces with NASA and defray some of the acquisition costs. CCI information is available on-line at (<http://procurement.nasa.gov/cgi-bin/ccl/first.cgi>). If the requirement has been placed on the Acquisition Forecast, then a posting to the CCI web page is not required.

1.4 PROCUREMENT BRIEFING TO REQUIRING ORGANIZATION

This recommended briefing provides the requiring organization with an overview of the acquisition strategy development and Source Evaluation Board (SEB) processes and provides an opportunity for the procurement organization to clearly define the roles and responsibilities of the technical and procurement organizations. The agenda for this briefing could include such items as the: procurement objective, identification of primary stakeholders, roles and responsibilities, RFP components, review of the schedule, and discussion of lessons learned from previous SEB activities. Timing for this briefing may vary however it is recommended that it take place after the acquisition is included in the Master Buy Plan or establishment of a procurement development team (PDT) and in advance of the development of the acquisition strategy/procurement plan.

1.5 BUDGET VERIFICATION

Early in the process, the requiring organization should verify that funds are available or have been reserved and identified in the Program Operating Plan (POP) for the acquisition, or have developed a plan to obtain funding.

1.6 MASTER BUY PLAN (MBP) ACTIVITIES

1.6.1 Preparation and Submission

All competitive negotiated acquisitions of \$50,000,000 or more in estimated value including all options are subject to SEB procedures and must be submitted to NASA Headquarters Office of Procurement as part of the agency Master Buy Plan (MBP). (Note that for acquisitions for the Exploration Systems Mission Directorate or the Space Operations Mission Directorate there is a lower dollar threshold for the MBP requirement. See NFS 1807.7104.) When an SEB requirement is identified, the procurement organization should verify that it is indeed on the MBP. The Installation's MBP submittal and any in-year amendments provide basic information concerning the requirement and allow NASA Headquarters to determine its level of involvement in future key decision points relative to the acquisition. The requirements for the

MBP submittal are outlined in NFS 1807.71 and further defined in the MBP Database (MBPD) instructions at <http://www.hq.nasa.gov/office/procurement/regs/Table1807.doc> and the MBPD User Manual Instructions listed at: <http://ec.msfc.nasa.gov/hq/library/masterbuyplan.pdf>.

1.6.2 MBP Disposition

The MBP is reviewed by multiple Headquarters organizations. Headquarters decides the extent of delegation to the Installation or if a Headquarters Procurement Strategy Meeting (PSM) shall be convened. Generally, if a Headquarters PSM is selected, disposition of the outstanding Master Buy Plan elements will be addressed and included as part of the PSM process and included in the PSM minutes.

1.7 DEVELOP ACQUISITION STRATEGY – ACQUISITION PLAN/PSM

The Acquisition Strategy Meeting (ASM) previously described as such at NFS 1807.170 has been re-titled Procurement Strategy Meeting (PSM) as the result of a revision in the NASA planning process into three significant and discrete events: Acquisition Strategic Planning (ASP), Acquisition Strategy Meeting (ASM), and the PSM. The ASP and the ASM occur during the program and project approval and requirements development processes. The ASP is used to approve programs and significant projects for execution. The purpose of the ASM has changed to be program and project specific, more detailed than the ASP, and is conducted in accordance with NPR 7120.5. The PSM is project or contract specific, and is developed by the project manager, supported by the contracting officer, and approved as prescribed in the NFS.

FAR Part 7 requires that agencies perform acquisition planning on all acquisitions and allows the agency head to "establish criteria and thresholds at which increasingly greater detail and formality in the planning process is required as the acquisition becomes more complex and costly, specifying those cases in which a written plan shall be prepared." As a part of an earlier streamlining effort, NASA decided that written plans would not be the preferred way of accomplishing the requirement for planning on major acquisitions. The preferred NASA approach is to conduct a PSM (see NFS 1807.170 and 1807.103). In the MBP process, Headquarters has the authority to select or delegate the acquisition to the Installation. A Headquarters PSM is appropriate for any new action that is submitted and selected under MBP procedures. If Headquarters delegates the acquisition to the Installation, either a local PSM will be convened or a written Acquisition Plan will be prepared in accordance with installation procedures.

PSMs are Acquisition Plans (see FAR 7.105 and NFS 1807.105) conducted through a meeting attended by all interested NASA offices. Since an approved PSM substitutes for a formal, written acquisition plan, the PSM should cover all the items that would normally be included in a written acquisition plan including a comprehensive review of the requirement, overall funding situation, the anticipated competitive environment, special situations or issues that could affect the acquisition, risk management, and the planned RFP/Contract provisions that will serve to protect the Government's interest. Although all elements of an acquisition plan need to be addressed, the focus of the PSM should be on those important issues that are unique to the particular requirement being discussed. When PSMs are convened, the charts and signed minutes serve as the formal Acquisition Plan.

The online “Guide for Successful Headquarters Procurement Strategy Meetings (PSMs)” can be found at the following URL: <http://ec.msfc.nasa.gov/hq/library/PSMs.html>. Individuals responsible for the preparation and briefing of the PSM are strongly encouraged to pre-brief appropriate HQ level program officials to identify any issues they may have. In addition, Installation personnel are reminded to submit acceptable PSM presentation charts to the Cognizant Headquarters procurement analyst at least two weeks in advance of the meeting so that the appropriate coordination can take place at Headquarters. Since PSM charts cannot be used as justification to grant a deviation or waiver, separate deviation/waiver packages must be prepared in accordance with FAR 1.4 and NFS 1801.4 and the packages should be forwarded to allow sufficient time for review prior to the PSM if any deviations or waivers are sought.

1.8 SEB FACILITY LOGISTICS

The procurement and requiring organizations should coordinate the arrangement for adequate space and resources to conduct the SEB. Several NASA Installations have designated SEB facilities and all installations have senior procurement personnel who can help in identifying the requirements necessary for secure space. If there is any doubt at a specific installation as to whom within the procurement office can assist contact the Installation Procurement Officer. The facility and equipment need to be in conformance with the physical security requirements as well as the information technology security requirements (e.g. computers not connected to the Internet) identified in the security plan or other plans as appropriate. The plans dealing with physical and informational security should consider and address the dynamic progression of security requirements (i.e. - as information becomes more sensitive – more security restrictions are necessary). Attachment B provides an example of a Security Plan (if applicable) for addressing secure space and equipment to conduct an SEB properly.

1.9 INITIATE REQUIREMENTS DEFINITION & DEVELOPMENT OF EVALUATION FACTORS (SOW, Data Requirements & Evaluation Factors)

In this phase, the requiring organization and the procurement organization work together to define the requirements of the acquisition (determining "what" needs to be acquired) and work begins on the "how" of the acquisition by beginning to develop the draft RFP. The requirements definition should continue concurrently with the activities already described in Section 1.0. Section 3.0 provides detailed information relative to drafting the statement of work (SOW), data requirements and evaluation factors but the activity is identified here because the process should be initiated as soon as possible.

1.10 MARKET RESEARCH

Market research, conducted in accordance with FAR Part 10, involves reviewing the marketplace to answer questions such as:

- Are the goods or services required by NASA available in the commercial marketplace?
- When procured commercially, what type of contract is used most often?
- What types of contract terms, conditions and performance incentives are normally utilized? Some clauses may need tailoring under a FAR Part 12 contract.

- If not commercially available, could NASA revise its requirement (while still satisfying its basic need) and use a commercially available item/service?
- What companies or types of companies can NASA expect to propose on this requirement?

NASA provides comprehensive guidance on market research at this website:

<http://www.hq.nasa.gov/office/procurement/market.html>.

The results of this research are integral to the efforts of the requiring organization and the procurement professionals to develop the SOW and RFP. It may be useful to issue a Request for Information synopsis to help refine the requirements definition or a Sources Sought synopsis if potential sources are not easily identified through market research. The responses to a Sources Sought synopsis can also be helpful in determining whether the requirement should be set aside for small businesses (See Paragraph 1.13) as it will aid in the determination of the pool of eligible Small Businesses, including Service-Disabled Veteran-Owned Small Business (SDVOSB), Small Disadvantage Business (SDB), Woman-Owned Small Business (WOSB), Historically Black College/University (HBCU), and Other Minority Educational Institutions (OMEI) in the appropriate industrial classifications.

A list of potential sources should be compiled by the Contracting Officer using market research; request for information (RFI); sources sought synopses; and pre-solicitation meetings or conferences. This list of potential sources should be made available to potential evaluators to determine whether there are any known or potential financial conflict of interest situations relative to individual evaluators (however, it is the final bidders list that will be used to identify any conflicts for evaluators). Also see SEB Training Sections (2.6.1 and 2.6.2) for additional coverage on financial conflicts of interest. Individuals should consult with their Installation Office of Chief Counsel (OCC) if they have questions regarding financial conflicts of interest.

1.11 INITIATE DEVELOPMENT OF INDEPENDENT GOVERNMENT COST ESTIMATE (IGCE)

Development of a detailed IGCE should be accomplished early in the acquisition planning process and thus this activity is included here. Section 3.1.1.2 of this guide provides specific details relative to its development and finalization, but in general terms, the IGCE should contain an estimate of the labor and non-labor resources required to meet the government's requirement.

1.12 INITIAL RISK IDENTIFICATION

Risk management begins early in the acquisition process with an initial risk identification and development of plans to manage risks throughout the procurement cycle. Risk-Based Acquisition Management (RBAM) is required by the NASA Procedural Requirements (NPR) 7120.5 "NASA Program and Project Management Processes and Requirements" and must be addressed in program and project plans. The acquisition strategy is required to address:

- Technical risks
- Schedule risks
- Cost risks

- Safety and security (including personnel, information technology, and facilities/property);
- The need to involve foreign sources (contractor and/or governmental);
- Risks of unauthorized technology transfer (see NPD 2110.1 “Foreign Access to NASA Technology Transfer Materials” and NPD 2190.1 “NASA Export Control Program” (<http://www.hq.nasa.gov/office/codei/nasaecp/ecpolicy.html>));
- Resource risk, including the necessary level and expertise of NASA personnel resources available to manage the project/program.

For each area of risk identified, the acquisition strategy shall include a quantification of the relative magnitude (e.g., high, medium, low) together with the specific actions taken to structure the acquisition approach to manage the risks throughout the acquisition process. For example, this discussion would identify those areas that have safety risk, discuss how safety is addressed in contract requirements and evaluated in the source selection, and how it will be managed and incentivized during contract performance. Decisions to accept, mitigate, track, and/or research risk factors shall be identified and documented as part of acquisition planning.

The Office of Safety and Mission Assurance has prepared an overview presentation relating to the RBAM process including a list of Installation RBAM Champions which is available at: <http://www.grc.nasa.gov/WWW/spaceiso/rbam/docs/overview.ppt>. The Agency RBAM site is: <http://www.grc.nasa.gov/WWW/spaceiso/rbam/>. It is important to note that the RBAM process is used up to the point of RFP release. However, after release of the RFP the evaluation of risks shall be consistent with the evaluation criteria as stated in the RFP. Following source selection, all evaluated risks for the successful offeror are identified and appropriately tracked consistent with RBAM and Installation policy during contract performance consistent with the terms of the contract.

1.13 SET-ASIDE OR SMALL BUSINESS METHODOLOGY

In accordance with FAR 6.203, 6.204, 6.205, and 6.206, competition may be limited to fulfill statutory requirements for contracting with Small, Section 8(a), Historically Underutilized Business Zone (HUBZone) or service-disabled veteran-owned small businesses. FAR 19.5, provides guidance for determining whether an acquisition should be set-aside for small businesses. If it is determined that a requirement cannot be set aside, small business subcontracting participation goals should be developed in accordance with FAR 19.7 for subcontracting plans and FAR 19.12 for small disadvantaged business (SDB) participation goals. NASA guidelines for developing such goals are set forth in NPD 5000.2 “Uniform Methodology for Determination of Small Disadvantaged Business Subcontracting Goals”.

1.14 DEVELOPMENT OF AN ACQUISITION WEB SITE

Recommended Best Practice - For significant competitive acquisitions, a procurement-specific Internet-based web site may be created prior to formalization of the acquisition strategy. The Internet address of the web site should be provided to prospective offerors via pre-solicitation synopses. The development of this web site should be completed as early in the acquisition planning process as practicable to facilitate meaningful exchanges of data and should be established well in advance of planning for the PSM. It mutually benefits both the Government

and industry to assist industry in its planning and facilitate meeting the acquisition requirements.

This website is not a replacement for, but is a supplement to, the NASA Acquisition Internet Service (NAIS) system. The NAIS provides a portal to the government point of entry (GPE), namely the Federal Business Opportunities (FedBizOps) web pages, which are the official procurement sites which should host the official procurement related files like the RFP and amendments. As such, this informational website should contain a hotlink back to the NAIS. Additionally, this website should be developed and maintained in accordance with all Installation and Agency procedures as they relate to IT Security.

SECTION 2.0 SOURCE EVALUATION BOARD (SEB)

GENERAL INFORMATION

The official SEB activities commence upon receipt by the SEB Chairperson of the appointment letter, signed by the SSA, establishing the SEB and designating its members. This appointment letter should be issued no later than approval of the acquisition strategy. This section defines the composition, appointment, and organization of the SEB followed by a discussion of the roles and responsibilities of the SEB and those associated directly with the SEB.

2.1 SEB ACTIVITIES

SEB Composition

SEBs shall be comprised of qualified management, technical, scientific, contracting, and business personnel including, where appropriate, representatives from the safety and health, quality assurance, property, physical security, and information technology security organizations. Each SEB shall have a Legal Advisor assigned from the Installation Office of Chief Counsel (OCC). Generally, the SEB Chairperson, SEB members, and any committee members are drawn from the local installation. However, in some cases, personnel from other NASA installations or other Government agencies might participate when their services are required in a particular area of expertise and would significantly contribute to the evaluation of proposals. NASA policy is to have proposals evaluated by highly competent technical and management personnel. (It is wise to include at least one person highly proficient in the use of specialized software applications, e.g. MS-Word, Project, Excel, and PowerPoint to each board). Non-Government personnel may not serve as voting members on SEBs under any circumstances.

If it is determined in accordance with FAR 37.2 and NFS 1837.204 that expertise necessary for the evaluation of proposals is not available within the Government, non-Government evaluators may participate (this rarely happens). If this determination is made, non-Government evaluators must first be appointed as special Government employees by the installation personnel office (see NFS 1815.207-71). Once the non-Government personnel are appointed as special Government employees, the Procurement Officer must approve the release of proposal data to those personnel (see NFS 1815.207-70). As a practical matter, the Procurement Officer shall be consulted before any special Government employees are appointed. It is a good practice to start the appointment of special Government employee process as soon as possible prior to RFP release so as to not impede the acquisition schedule.

All personnel participating in evaluation proceedings shall be instructed to observe the restrictions in the FAR, NFS and other legal requirements or policy guidance regarding personal conflicts of interest and restrictions that apply to obtaining or disclosing proprietary or source selection information. All personnel participating in the evaluation of proposals may not reveal, in any way, any information concerning the evaluation to anyone not also participating in the evaluation. The disclosure of any proprietary or source selection

information outside the SEB shall be approved by the Contracting Officer. It is critical that SEB evaluations are not influenced by anyone outside the SEB process whether or not such persons are NASA civil servant employees. The formal authority normally associated with supervisors or managers does not permit them to acquire information about an SEB, even from a subordinate employee who is appointed as an SEB member.

It is desirable that voting members of the SEB include people who will have key assignments on or knowledge of the project which is the subject of the acquisition. It is important to have SEB members who have the requisite technical knowledge and the objectivity to perform a full and fair evaluation of offerors. The SEB members must possess these critical traits so there can be no claim of bias by offerors who are not selected for award. In cases where it appears that objectivity is in question, it may be appropriate to designate a management official from outside the requiring organization to serve as SEB Chairperson.

In accordance with NFS 1815.370, SEB membership shall be limited to a maximum of seven voting members, including the Chairperson. If additional support is needed, the use of committees, panels and/or consultants is authorized. SEB committees function as a fact-finding arm of the SEB in broad groupings of related disciplines. The SEB panel or consultant functions as a fact-finding arm of the committee in a specialized area of the committees' responsibilities for deeper analysis than a committee can provide. The total number of all evaluators (recorder, committee members, panels, consultants, excluding SEB voting members and ex-officio members) shall not exceed twenty (20) unless the Procurement Officer approves in writing a higher number of participants. Whenever feasible, an assignment to SEB membership as a voting member shall be on a full-time basis. Full-time membership shall be the normal situation. When this is not feasible, SEB membership and duties are to take precedence over other duties. Supervisors are responsible for ensuring that other work assignments of the SEB voting members do not adversely impact the source selection process, which shall be their primary responsibility. Full management support is required to have a successful source selection.

The following people shall be voting members for all SEBs:

- Chairperson;
- One or more senior or key technical representative(s) from the requiring organization;
- An experienced procurement representative;
- A senior Safety & Mission Assurance (S&MA) representative, when appropriate;
- Committee chairpersons (if committees are used and using voting members as committee chairpersons does not impose an excessive workload).

All voting members of the SEB shall have equal status as rating officials.

The number of non-voting ex-officio (advisory) members shall be kept as small as possible and shall be selected for the experience and expertise they can provide to the SEB. Since their

advisory role may require access to highly sensitive SEB material and findings, non-voting ex-officio membership on SEBs other than the following is discouraged:

- Installation Chief Counsel and/or designee of the installation (e.g., Installation SEB Advisor);
- Installation Procurement Officer;
- Chairpersons of SEB committees, unless designated as a voting member;
- Installation Small Business Specialist;
- Responsible Contracting Officer, unless designated as a voting member;
- SEB Recorder;
- AA for Procurement and designee from the Program Operations Division;
- General Counsel and/or Associate General Counsel; and
- Director of the Field Installation or designee when either an Official-In-Charge of a Headquarters Program Office or the Administrator is the SSA.

Non-voting ex-officio members may state their views and contribute to the discussions in SEB deliberations, but they may not participate in the actual rating process. Ex-officio members may not unduly influence the rating process. The Chairperson is responsible for determining appropriate attendance at SEB meetings and is encouraged to seek the advice and counsel of non-voting ex-officio members whenever necessary without convening a special meeting.

2.2 SEB APPOINTMENT

The SEB shall be comprised of competent individuals fully qualified to identify the strengths, weaknesses, and risks associated with proposals submitted in response to the solicitation. The SEB shall be appointed as early as possible in the acquisition process, but not later than acquisition plan or acquisition strategy approval.

For acquisitions where source selection has been delegated to the Installation, the SSA for Installation acquisitions shall be established in accordance with Installation procedures. Each Center Director has the authority to designate the SSA. For acquisitions where the source selection has been retained by NASA Headquarters, HQ will designate the SSA.

The SSA designates the SEB Chairperson and members, both voting and non-voting, by signing an SEB appointment letter. At the Installation, résumés that provide the functional title, grade level, and any prior SEB experience of proposed voting members may be provided, at the SSA's request, with the draft SEB appointment letter when it is submitted to the SSA for approval. If Headquarters retains SSA authority, the Headquarters Office of Procurement must concur on the SEB appointments. Qualifications of voting members, including functional title, grade level, and related SEB experience, shall be provided to the SSA.

Once the SEB Appointment Letter is approved, coordination of SEB Members' annual leave plans should be completed as early as possible in the process in order to plan and schedule SEB activities/milestones. In addition, a copy of the appointment letter shall be provided to the Installation Office of the Chief Counsel to enable that office to perform its review of OGE

Forms 450 or SF-278 to ensure no conflicts of interest exist. Individuals may not participate in SEB activities before being cleared by Installation Office of Chief Counsel. See Attachment C for an example of an SEB Appointment Letter.

2.3 SEB INITIAL MEETING

For acquisitions delegated to the Installation, SEB activities should begin promptly upon acquisition strategy approval and receipt by the SEB Chairperson of the memo establishing the SEB. Boards appointed by a Headquarters SSA should begin preliminary activities upon PSM approval and submittal of the SEB Appointment Letter to NASA Headquarters.

SEB Members shall review the approved Acquisition Plan or PSM Minutes to familiarize themselves with (1) the scope of the acquisition, (2) all aspects of the acquisition strategy, and (3) the schedule for accomplishing the action. The SEB must ensure its activities are in consonance with the approved Acquisition Strategy.

2.4 SEB ORGANIZATION

The organization of an SEB is tailored to the requirements of the particular acquisition. This can range from the simplest situation, where the SEB conducts the evaluation and fact-finding without the use of committees or panels, to a highly complex situation involving a major acquisition where two or more committees are formed and these, in turn, are assisted by special panels in particular areas. The appropriate organization normally is somewhere between these two extremes but in all cases the number of committees or panels should be kept to a minimum consistent with the requirements of the acquisition.

2.5 ROLES AND RESPONSIBILITIES

This section defines the roles and responsibilities of the Installation's Staff and Management, the Source Selection Authority, and the SEB.

2.5.1 Cognizant Staff and Installation Management

Appropriate cognizant line and staff management shall:

- Establish each SEB with fully qualified Government personnel possessing broad experience and the professional skills and knowledge required for proper evaluation and assessment of offerors' proposals;
- Ensure all personnel assigned to the SEB are unencumbered by other assignments which compete with SEB activities and, further, ensure that personnel assigned to the SEB are officially appointed to the activity for the duration of the SEB;
- Ensure the SEB is provided all current NASA policies and procedures relevant to SEB operation;
- Ensure all SEB members, ex-officio members and support staff are properly trained to perform their duties satisfactorily;
- Ensure acquisition strategy and planning objectives are achieved as reflected in the acquisition's requirements;

- Concur in the substance and weight of evaluation factors and sub-factors;
- Ensure the Request for Proposal (RFP) is complete, clear, and consistent with agency objectives and with the needs of the activity requiring the acquisition that the procedures for evaluation and selection are clearly set forth. Ensure the offeror is not burdened (and, consequently, the evaluators) with unnecessary requests for data not pertinent to source selection;
- Ensure appropriate actions are taken, consistent with the FAR and NFS, to obtain full and open competition in the selection process, or to obtain appropriate approvals for exceptions; and
- Establish an SEB advisory group or individual at the field installation to ensure proper source selection procedures are utilized.

2.5.2 Source Selection Authority (SSA)

The SSA is the senior official responsible for proper and efficient conduct of the source selection process and for making the final source selection decision. It is the SSA's responsibility to decide which of the proposals submitted in response to the solicitation is most advantageous to the Government after carefully considering the evaluation factors and their relative importance as stated in the RFP. The decision may require the SSA to make trade-off judgments among competing offerors, based upon the evaluation factors (e.g. Mission Suitability, Past Performance, and Cost Factors).

In accordance with FAR 15.3 and NFS 1815.303, The SSA has the following responsibilities:

- Establish and appoint the evaluation team, tailored for the particular acquisition, which includes appropriate contracting, legal, logistics, technical, safety, quality assurance, and other expertise to ensure a comprehensive evaluation of offers. However, when the Administrator will serve as the SSA, the Official-in-Charge of the cognizant Headquarters Program Office will appoint the evaluation team;
- Approve the source selection strategy or acquisition plan, if applicable, before solicitation release;
- Ensure consistency among the solicitation requirements, notices to offerors, proposal preparation instructions, evaluation factors and sub-factors, solicitation provisions or contract clauses, and data requirements;
- Ensure that proposals are evaluated based solely on the factors and sub-factors contained in the solicitation;
- Consider the recommendations of advisory boards or panels (if any);
- Approve the substance and weight of evaluation factors and sub-factors prior to release of the RFP, or delegate this responsibility to appropriate management personnel;
- Approve the source selection approach, rating method, evaluation factors, sub-factors, the weight of the evaluation factors and sub-factors when used, and any special standards of responsibility before release of the RFP, or delegate this authority to appropriate management personnel;

- Provide the source selection team with appropriate resources, guidance and special instructions to conduct the evaluation and selection procedures; and
- Select the source or sources whose proposal represents the best value to the Government.

2.5.3 Source Evaluation Board (SEB)

The SEB is the essential group in the source evaluation process. The SEB assists the SSA by providing expert analyses of the offeror's proposals in relation to the evaluation factors and sub-factors contained in the solicitation. It is essential that SEBs be comprised of competent individuals fully qualified to identify strengths, weaknesses, and risks associated with proposals submitted in response to the solicitation. Therefore, the SEB voting members must review the solicitation prior to release. Subject to reviews by the SSA and Installation management personnel as may be required, the SEB:

- Supports disposition of industry comments regarding the Draft RFP.
- Assists in the development of responses to questions received from industry/potential offerors regarding the final RFP, and make recommendations for solicitation amendments.
- Performs a preliminary review of proposals to verify their acceptability;
- Performs an evaluation of acceptable initial proposals sufficient for determination of the competitive range or for selection;
- The SEB shall not compare the offeror's proposals against each other in their evaluation;
- Reads and evaluates each acceptable proposal in its entirety, regardless of whether any committees are appointed to participate in the evaluation.
- Assists in the determination of a competitive range comprised of the most highly rated proposals;
- Participates in discussions with all offerors in the competitive range;
- Performs an evaluation of final proposal revisions;
- Documents the conduct and results of the evaluation of proposals and discussions with offerors;
- Presents the results of its evaluation to the SSA;
- Supports preparation of the selection statement;
- Participates in or provides support when preparing for the debriefings to offerors; and
- Supports NASA Headquarters' Office of General Counsel (OGC) in defense of any protest.

All personnel involved in SEB activities are responsible for complying with the applicable regulations or policies. Accordingly, they are advised to seek counsel and guidance from appropriate personnel, such as the SEB Chairperson, the Contracting Officer or procurement voting member, or other ex-officio members such as the Installation Legal Advisor.

Subsequent to selection and announcement of contract award, much of the SEB data remains Source Selection Sensitive and shall not be released. In addition, beyond the detailed record of the SEB's evaluation, proposal data often contains proprietary and confidential business information that must be protected against improper disclosure.

Note: The SEB shall not delegate its evaluation responsibility in whole or in part. Findings of committees must be reviewed by the SEB to apply its collective judgment to determine the validity of all SEB findings reported to the SSA.

2.5.4 Responsibilities of the SEB Chairperson

The SEB Chairperson is the principal operating executive of the SEB. This carries with it a responsibility broader in scope and including more requirements for coordination across different specialized disciplines and through more diverse management channels than is expected in most management situations. The Chairperson is expected to manage the team efficiently without compromising the validity of the findings provided to the SSA as the basis for a sound selection decision. The SEB Chairperson shall ensure the acquiring organization's requirements are appropriately incorporated in the solicitation and evaluation criteria. The SEB Chairperson's responsibilities include managing the following types of activities: SSA presentation, written evaluation report, and notices to NASA Headquarters. The SEB Chairperson (this can be a joint effort with the Contracting Officer) shall brief the SSA on the results of the SEB deliberations to permit an informed and objective selection of the best source(s) for the acquisition. As a best practice, the SEB Chairperson should also compile lessons learned from the conduct of the source selection for use by future SEBs.

2.5.5 Responsibilities of the SEB Recorder

The SEB Recorder functions as the principal administrative assistant to the SEB Chairperson. The duties and responsibilities of the position may include:

- Attends all SEB meetings and serves as principal assistant to the SEB Chairperson;
- Obtains secure work areas for conduct of SEB activity and develops and implements procedures for controlling access and safeguarding SEB proceedings and documentation;
- Assist in page counts, as required, in accordance with the page limitations outlined in the RFP;
- Obtains materials, supplies, and equipment needed by the SEB;
- Arranges for preparation, reproduction, control, and distribution of material relating to the activity of the SEB and its committees;
- Prepares and distributes any required agendas for SEB meetings;
- Obtains and distributes current applicable procedures, policies, and instructions to the SEB and committee members and others involved;
- Assist in the documentation leading to consensus findings ;
- Follows up on action items assigned to SEB members to ensure no delays in the SEB schedule occur;

- Obtains the SEB Chairperson's approval of SEB meeting minutes. Provides copies to all voting SEB members and/or non-voting members, as directed by the SEB Chairperson. Retains the original copy of the minutes as prescribed by the Contracting Officer;
- Assists in preparation and assembly of the SEB's report of findings and presentation charts and arranges for reproduction and distribution;
- Destroys all duplicate material in excess of the SEB's need or retains material, as prescribed by the Contracting Officer, the SEB, and/or the SSA;
- After formal selection announcement, accumulates, packages, and forwards documentation pertinent to the SEB's work to the cognizant Contracting Officer for retention in the official contract file throughout the life of the contract;
- At the conclusion of all SEB activity, surveys the area where SEB activity occurred to ensure all sensitive material has been disposed of properly, and arranges for the return of equipment and materials, as appropriate.

2.5.6 Responsibilities of SEB Committees

If a committee is utilized, it functions as a fact-finding arm of the SEB, usually in a broad grouping of related disciplines (e.g., technical or management). It is comprised of people well-versed and experienced in each of the major disciplines for which it is responsible. For example, a "Management Committee" could include experts in such areas as organization, pricing, personnel, labor, contracting, and facilities operation. The committee examines in detail each proposal, or portion thereof, assigned by the SEB. It evaluates such proposals or excerpts in accordance with the approved evaluation factors and sub-factors before submitting a written report to the SEB summarizing its evaluation. If information technology is being used to capture evaluation results, this can be accomplished by submitting findings electronically into the automated evaluation software as directed by the SEB. Committees also respond to requirements assigned by the SEB, including further justification or reconsideration of its findings. Committee chairpersons shall, with respect to their committees, exercise the same responsibility for administrative and procedural matters, as does the SEB Chairperson for the SEB.

The use of committees does not relieve any SEB voting member from the obligation to personally read and evaluate each proposal in its entirety.

Attachment D provides an example of an SEB Establishment Process Flow to address the activities described herein.

2.6 SEB TRAINING, TOOLS, AND FACILITIES

2.6.1 SEB Training (Informal Briefings) and Conflicts of Interest

SEB training should be provided to all SEB members and evaluators, which encompasses an overview of the SEB process, the reinforcement of the need for SEB security, and address the legal/ethics issues involved in SEB activities. The Installation SEB Manager/Advisor (or individual responsible for the Installation SEB process), a representative from the Installation

security office, and a representative from the Installation Office of Chief Counsel (OCC) shall conduct these briefings to the SEB members shortly after being appointed. This briefing includes coverage of such matters as the latest procedural developments, conflict of interest, procurement sensitivity issues, and special security controls. It is most efficient for SEB members to convene once for these briefings. If individuals are added as evaluators after the SEB has been established these individuals should be provided the aforementioned briefings. The adding of evaluators after the SEB has been established should be discouraged as much as possible.

The SEB overview will address the latest procedural developments and cover key elements of the process and evaluation plan (if a plan is required by installation procedures). The briefing should provide evaluators a better understanding of the events that are about to occur, the members' responsibilities in carrying out the evaluations, and answer questions that they may have concerning the process.

The security briefing will cover special security controls applicable to the SEB work areas and facilities. Specifically, the briefing will encompass physical, personnel, and information (document control and IT) security procedures. See Attachment B – Security Plan and NPD 2810.1 – “NASA Information Security Policy”.

The Legal Briefing will cover issues relating to conflict of interest, confidentiality, ethics laws, and procurement sensitivity issues in accordance with NPR 1900.3 and NPD 1900.9, Ethics Program Management.

Requirements: Federal law provides that Government employees may not participate personally and substantially in any particular matters in which they have a financial interest. Federal regulations, which are broader than the statutes, require Government employees to avoid the appearance of favoritism or partiality.

In order to comply with these statutes and regulations, SEB participants are required to provide a copy of a signed Annual SF 278 or OGE Form 450 filed at their Center to the Installation Legal Advisor supporting the SEB and may not be required to file a new form. (Employees who do not ordinarily submit the annual OGE Form 450 will be requested to complete and submit a “new entrant” 450 to the Installation Legal Advisor supporting the SEB.) In addition, each SEB participant shall provide the Installation Legal Advisor with information on a) assets that fall below the dollar thresholds required on the SF 278 or the OGE Form 450, b) any anticipated interests or involvement by a person or entity with whom the employee has a covered relationship, and c) any changes to the information reported in the latest form. For purposes of reporting, “participant to an SEB” is defined as the Source Selection Authority (SSA), members of the SEB, members of an SEB committee, or individuals listed as advisors or ex-officio members to the SSA, the SEB or an SEB committee. At the discretion of the contracting officer, individuals on other advisory committees reporting to the SSA may also be required to report their financial interests.

An employee shall be disqualified from participation if the employee, spouse, or minor child has a financial interest of any type or magnitude in any entity participating, or expected to participate, in the procurement. These interests can include, without limitation, employment interests, benefit plans, negotiations concerning prospective employment, and investment interests. Further, employees may not participate if a person or entity with whom they have a covered relationship has an interest, such that their impartiality might be questioned. Covered relationships include, for example, household members, family members, former employers, or organizations with which the employee or the employee's relatives have an employment or other relationship. Pursuant to NASA policy, the exemption to the conflict of interest restrictions found in 5 CFR 2640.202(a) for securities valued at less than \$15,000 is not applicable. The Installation Legal Advisor will provide a list of names of employees that have been cleared to the SSA upon the completion of the review.

This review does not diminish each employee's personal responsibility to comply with the ethics laws. SEB Participants must be vigilant about identifying conflicts throughout the procurement process and must disclose any conflict not revealed during the ethics review as soon as the conflict is identified. In the event that real or potential conflicts or appearance concerns are identified during the source selection process, the Installation Legal Advisor supporting the SEB should discuss the conflict and any possible solutions with the SSA and the participant.

Other considerations: Employees that do not meet the definition of a participant to an SEB, but who attend briefings involving source selection material, are not required to go through a screening process for conflicts of interest. These employees must immediately excuse themselves from the meeting if they know they have a potential conflict of interest with any of the interested parties listed at the beginning of the briefings charts.

The Procurement Integrity Act prohibits all employees from disclosing proprietary or source selection information to any person other than a person authorized by the head of the agency or the contracting officer to receive such information, a statutory prohibition that negates the need for civil servants to sign nondisclosure statements. In addition, employees who participate personally and substantially in any Federal agency procurement shall not engage in discussions with competing contractors regarding future employment or business opportunities or solicit or accept any thing of value from any officer, employee, representative, agent, or consultant of any competing contractor.

Handling of the Financial Information: All of the information provided as part of the ethics review is highly sensitive, must be kept in a room or cabinet that is capable of being locked, and should not be reviewed by anyone other than an Agency Installation Legal Advisor. The participants of the SEB should provide this information to the SEB Installation Legal Advisor using sealed envelopes. This material should not be included in the official contract file due to its sensitive nature; however, a list of the employees who were cleared for participation may be retained in the official contract file.

For More Information: For more information on who must file a financial disclosure form, see NASA Procedural Requirements (NPR) 1900.3A, Ethics Program Management, Chapter 4.

2.6.2 Training (Formal)

Although it may not be required by regulation or policy, SEB participants should determine if specialized SEB-related training is required to accomplish their task. If additional training is required, participants should seek it out with the assistance of their Installation's training coordinator as early in the process as possible. Participation of all SEB members, as a group, in the SEB training class, is very beneficial to the teambuilding process and preparation for the evaluation.

There are formal SEB training classes that teach the NASA source selection process, following a curriculum established by NASA's Office of Procurement. The course will provide participants with hands on experience with portions of the source selection process using a simulation approach. The overall flow of the course follows that of the source selection process. This training reinforces the need for SEB security, provides an overview of the SEB process, discusses the relationship between the Statement of Work and the RFP's Sections L and M, and offers an opportunity to practice the steps that are performed in an SEB. The training provides members a better understanding of the events that are about to occur and answer questions that they may have concerning the process. It is a good idea to include SEB training as a milestone for SEBs in the acquisition schedule.

2.6.3 Tools

A key decision is whether or not to use an electronic evaluation software system or some other approach. Consult with the Installation SEB Advisor (or individual responsible for the Installation SEB process) in making this decision and arrange for any necessary training. Use of such software is highly recommended on larger and more complicated source selections in order to ensure the evaluation has been properly documented.

2.6.4 Facilities

SEB business shall be conducted in the SEB dedicated area. The Contracting Officer and SEB Chairperson should determine the equipment, facility, and security needs for the action and indicate these to the Installation SEB Advisor (or appropriate individual). The Installation SEB Advisor will arrange for adequate space and facilitate obtaining any requested equipment to conduct the SEB. If a dedicated area is not available or determined not to be necessary, it is the Contracting Officer's responsibility to ensure the proper handling and security of proposals and the safeguard of source selection information throughout the acquisition process.

2.7 SEB EVALUATION PLAN

Although not specifically required by the FAR or NFS, SEBs may prepare a written evaluation plan that clearly documents the SEB's plans to adhere to the FAR, NFS, and the RFP in the conduct of the evaluation. If used, it is appropriate for the SEB evaluation plan to include SEB security, documenting the methods the SEB will use to ensure SEB security. The plan should clearly identify individual responsibilities and provide instructions to SEB participants (if required per Installation-specific policy). The purpose of the evaluation plan is not to restate Sections L and M of the solicitation, it is to instruct the SEB members of the processes to be followed during the course of the evaluation. It is extremely important to ensure consistency

between the solicitation and the evaluation plan in terms of definitions used and any other relevant items. See your installation procurement/policy office or SEB Manager/Advisor for an example of an SEB Evaluation Plan which outlines the responsibilities, processes, and instructions for individuals involved in the SEB.

The definitions for classification of findings are defined as follows:

The definitions for Deficiency, Weakness, and Significant Weakness are required to be used as defined in FAR Part 15.001 as follows:

- Deficiency is a material failure of a proposal to meet a Government requirement or a combination of significant weaknesses in a proposal that increases the risk of unsuccessful contract performance to an unacceptable level.
- Weakness means a flaw in the proposal that increases the risk of unsuccessful contract performance.
- Significant Weakness in the proposal is a flaw that appreciably increases the risk of unsuccessful contract performance.

Since the definitions for Strength and Significant Strength are not in the FAR, suggested definitions are provided as follows:

- Strength: an aspect of the proposal that will have some positive impact on the successful performance of the contract.
- Significant Strength: some aspect of the proposal that greatly enhances the potential for successful contract performance.

SECTION 3.0 DEVELOPMENT AND RELEASE OF THE RFP

GENERAL INFORMATION

This section identifies the steps to be taken in preparation of the RFP. It discusses development of the evaluation factors and sub-factors as well as the development, review, approval and release of the Request for Proposal (RFP).

For most competitive acquisitions (other than commercial item acquisitions) subject to the FAR Part 15 Source Selection process, the solicitation shall be formatted in accordance with the uniform contract format as defined in FAR 15.204-1. Solicitations for commercial items shall be assembled to the maximum extent practicable in the format prescribed by FAR 12.303.

ACTIVITIES

3.1 DRAFT RFP (DRFP) DEVELOPMENT

In accordance with NFS 1815.201, a DRFP is required to be issued for all competitive acquisitions expected to exceed \$10M (including all options and later phases) except for AOs, NRAs, SBIRs, STTRs, and A&E services. When a DRFP is issued, it must specifically request potential offerors to identify unnecessary or inefficient requirements. If the DRFP contains Government-unique standards, prospective offerors should be invited to identify voluntary consensus standards that meet the Government's requirements as alternatives to Government-unique standards cited as requirements, in accordance with FAR 11.101 and OMB Circular A-119 "Federal Participation in the Development and Use of Voluntary Consensus Standards and in Conformity Assessment Activities" (e.g., industry standards such as ISO-9000/9001). Comments should also be requested on any perceived safety, occupational health, security (including information technology security), environmental, property, quality assurance, export control, and/or other programmatic risk issues associated with performance of the work. When considered appropriate, the draft version of the statement of work or the specifications may be published in advance of other solicitation sections.

Contracting Officers should plan the acquisition schedule to include adequate time for issuance of the DRFP, prospective offeror review and comment, and NASA evaluation and disposition of the comments. When issuing DRFPs, prospective offerors should be advised that the DRFP is not a solicitation and NASA is not requesting proposals. For example, words such as "This Draft RFP is not a solicitation but is issued as an acquisition planning tool and as a means of soliciting industry comments for use in developing a future formal solicitation" ought to be prominently placed on the cover to any draft RFP (DRFP). Also, whenever feasible, Contracting Officers should include a summary of the disposition of significant DRFP comments with the final RFP.

3.1.1 Procurement Request (PR) Package, SOW, & DATA Requirements

The requiring organization should provide the Contracting Officer a complete purchase request (PR) package consisting of the SOW, the data requirements, listing of all deliverables, the independent Government cost estimate (IGCE), if available, the work breakdown structure (WBS), the funding document, and any other specifications or required technical documents. In some cases for especially large or complex requirements, it might be advisable to assign a procurement development team (PDT) comprised of personnel from appropriate technical and business disciplines to prepare the PR package. A complete review of the PR package including the SOW or other requirements shall be performed by various Installation organizations as needed, including: health and safety, physical security, information technology security, environmental, Government property, quality assurance, export control, technical, and management to ensure all areas are adequately addressed. The Contracting Officer supporting the requiring organization will assist the requiring organization in converting the PR package into a draft RFP.

The PR package should be reviewed by the appropriate organizations to determine if it is complete and suitable for the acquisition. The SEB should expect some revision of the PR package documents, and time should be allowed in the SEB schedule for this review and some rework. Such rework most likely will require special meetings with the representatives of the requiring organization. Elements of the PR package that are so deficient as to require a major revision or complete rewrite should be reported to appropriate levels of management and should also be identified as an SEB risk and potential schedule slip.

The draft SOW is developed by the requiring organization and should consider any market research findings. Performance based contracting (PBC) principles must be incorporated in the SOW whenever possible. The Contracting Officer will provide the requiring organization with PBC guidance and furnish examples of PBC SOWs. Some guidance for developing statements of work for NASA acquisitions can be found in the NASA Procurement Library (available from your Contracting Officer). It is essential that a comprehensive, well organized, draft SOW be provided to the SEB as the SEB schedule often does not allow enough time for anything beyond "fine tuning" the products the requiring organization provides to the SEB.

The data deliverable requirements are necessary to ensure NASA has sufficient insight to appropriately manage the work content and ensure that the contract requirements are satisfied. Avoiding non-essential data requirements will result in a cost-effective acquisition since data requirements and the management systems required to produce them is expensive. Contractors should be encouraged during the Draft RFP phase to suggest ways to reduce data deliverable requirements. When data requirements are determined to be essential, the requiring organization should carefully consider the type of data it must obtain. For example, data requirements that require NASA written approval before the contractor is allowed to proceed with work are very expensive and costly to administer.

3.1.1.1 Work Breakdown Structure (WBS)

The WBS is essentially an outline of the SOW. Generally, the requiring organization should provide a draft WBS to the SEB. A WBS can facilitate development of the IGCE as well as help potential offerors better understand the requirements when developing their proposals.

3.1.1.2 Independent Government Cost Estimate (IGCE)

Generally, the requiring organization has the clearest understanding of the resources that will likely be needed to satisfy the requirements. For example, for a service contract, the requiring organization would most likely know the skill mix and staffing levels that may be required as well as the amount of travel or other direct cost items. The requiring organization must include the basis of their estimates for the IGCE (e.g., historical costs, escalation factors for multi-year contracts). The requiring organization may require assistance from a procurement representative to obtain information about prevailing industry/locality wage rates, industry overhead or burden rates, and typical contractor accounting systems. The SEB must thoroughly review, challenge, refine and ultimately adopt the IGCE as the Government's best estimate of what the requirement might cost using what the Government believes to be a reasonable approach to accomplish the work. A well developed IGCE will provide a useful reference point during the evaluation and analysis of cost proposals. The IGCE should be completed by the time the RFP is issued.

3.1.2 Section M – Evaluation Factor Development

Section M of the RFP establishes the evaluation factors and sub-factors as well as their relative importance. These evaluation criteria will be used by the SEB when evaluating proposals and by the SSA when making a selection decision. Potential offerors pay particular attention to Sections L and M of the solicitation when preparing proposals due to the direct impact these sections have on the proposal evaluation and the source selection decision. The SEB should consult with the requiring organization early during the acquisition planning process to obtain its recommendation regarding the relative importance of evaluation factors.

The NFS 1815.304-70 provides guidance on evaluation factors, stating that NASA SEBs typically uses the following three factors to evaluate proposals:

- Mission Suitability
- Cost/Price
- Past Performance

The SEB should address programmatic/business issues such as safety, risk management, small business goals, small business subcontracting participation and small disadvantaged business participation, and the environment, in these evaluation factors. Also, these factors should be appropriately weighted in a manner fully consistent with the approved acquisition plan. The relative importance of the evaluation factors used must be set forth in section M of the RFP in narrative terms. FAR 15.304 requires that the solicitation state, at a minimum, whether all evaluation factors other than cost or price, when combined, are:

- Significantly more important than cost or price;
- Approximately equal to cost or price; or
- Significantly less important than cost or price

3.1.2.1 Mission Suitability

Mission suitability is the only factor that is numerically weighted (normally 1000 points) and scored. Each individual mission suitability sub-factor is numerically weighted and scored. The SEB shall develop and define the Mission Suitability sub-factors and determine the points to be assigned to each sub-factor. The relative importance assigned each of the evaluation factors and the point weighting of the Mission Suitability sub-factors requires the exercise of judgment based on the unique aspects of the acquisition. Mission Suitability sub-factors should reflect the critical requirements of the SOW. Each evaluation factor/sub-factor will be accompanied by a narrative description. In structuring evaluation mission suitability sub-factors, emphasis should be placed on identification of significant discriminators.

Clearly defining each sub-factor within the mission suitability factor helps to avoid overlap and assures an Offeror is not scored in two or more areas for the same work. The SEB should ensure the Mission Suitability sub-factors and narratives are complete, do not overlap, do not conflict, and are susceptible to being rated in order to distinguish between responsible offers. Examples of mission suitability sub-factors include: understanding the requirement; management approach; corporate resources; excellence of proposed design; and representative task orders. However, citation of these specific sub-factors is not intended to be restrictive or all inclusive. The nature of the requirements and the objective of the procurement may logically call for the use of some sub-factors titled and described in a somewhat different manner than those described below:

Understanding the Requirement. An offeror's proposal reflects how well the offeror comprehends the work and the data requirements. The offeror's proposal should be examined and analyzed to evaluate the offeror's understanding of the requirements as set forth in the RFP. Understanding of the requirement can be evaluated as a separate sub-factor or as an element to be considered as a part of the evaluation of each sub-factor. Although costs are analyzed separately from mission suitability, they may be significant in indicating the offeror's understanding of the resources, personnel and material required for performance of the contract. Accordingly, technical evaluators assigned to the SEB (committees or panels) should be given access to the cost proposal or portions of the cost proposal to help determine the offeror's understanding of the RFP requirements. Such cost information may also help them assess the validity of the offeror's approach to performing the work in accordance with the requirements. Cost realism, or the lack thereof, should enter into the SEB's assessment of the measure of understanding possessed by each offeror. Normally this would entail a consideration of cost realism in the evaluation of all sub-factors and elements wherein understanding is an essential concept. Similarly, an offeror's justification or rationale for proposed costs can give insight into how well the work to be performed is understood.

Management Approach. The offeror's management approach sets forth the offeror's management plan for efficiently managing the work as demonstrated by the proposed organizational structure, the recognition of essential management functions, and the effective overall integration of these functions. The management plan describes the project organization

proposed for the work, including internal operations and lines of authority, together with external interfaces and relationships with the Government, major subcontractors, and associate contractors. When properly prepared, the authority of the project manager, the project manager's relationship to the next echelon of management and the project manager's command of company resources can be ascertained from the management plan. Likewise, the management plan provides schedules necessary for the logical and timely pursuit of work, accompanied by a description of the offeror's work plan.

Corporate Resources. The SEB should assess the resources proposed by each offeror in general areas of personnel resources and facilities. For example, are the proper skill mixes and number of people necessary to do the work being proposed? Does the offeror propose facilities and, where required, special test equipment suitable and adequate to assure timely performance of the work? If the offeror does not possess adequate resources internally, is there a demonstrated ability to acquire them through subcontracts or otherwise?

Excellence of Proposed Design. In hardware acquisitions, design of the product is generally a major aspect of the competition. In order to arrive at an informed judgment, the SSA may require the SEB's evaluation of the merits of competing designs in relation to the stated requirement. In evaluating the proposed designs, the SEB should consider the resources required to perform the work inherent in the differing designs. Evaluation of design may extend to whatever subsystem level is deemed appropriate by the SEB and may include producibility, reliability, maintainability, and as applicable, warranties.

Representative Task Orders. Representative task orders are appropriately used for the evaluation of services contracts and may be most effective on task order type service contracts. The evaluation of proposed approaches to representative task orders can be accomplished through a separate sub-factor or as an element of all sub-factors. Representative task orders include specific technical problems and require offeror's to describe in specific detail how they would solve those problems including a technical approach. Identification of the needed resources both personnel and facilities, (as well as in some cases the proposed cost or price associated with their overall approach to perform the work as described – which may be considered under the Cost/Price Factor). When deciding upon the types of technical problems/nature of work for the representative task care should be taken to ensure that a past technical issue that has already been solved or performed is not utilized, which would give a specific offeror an undue competitive advantage over others. The types of problems need to be of the type and scope that would be anticipated during performance of the resulting contract in order for the use to be most meaningful. In some situations, it may be appropriate to use an approach similar to that of representative task orders whereby the evaluation team presents those offers that are carried forward from competitive range into discussions with a technical problem to solve during discussions which would demonstrate how the offeror's overall approach would be implemented within the parameters of resolving a specific problem.

In accordance with NFS 1815.304-70, the number of Mission Suitability sub-factors is limited to no more than five. NFS 1815.304 provides that if SDB participation is required to be evaluated in accordance with FAR 1815.304, it shall be included as a separate Mission Suitability sub-factor. 10 U.S.C. 2323(h) requires NASA to evaluate small business subcontracting plans, although this is typically included under the management sub-factor rather than being evaluated as a separate factor or sub-factor. Also, if a Safety and Health Plan is required (see NFS 1823.7001(c) and NPR 8715.3 “NASA Safety Manual”), then safety and health is required to be evaluated as a separate Mission Suitability sub-factor (NFS 1815.304-70).

3.1.2.2 Cost/Price

The SEB shall also describe how the Cost or Price analysis will be conducted in accordance with FAR 15.404. For fixed price contracts, Section M should explain how the SEB will analyze proposed prices. For cost-reimbursable contracts, Section M should define how the Cost evaluation will be conducted. As a minimum, a Cost evaluation should produce findings which include:

- (1) The costs or prices as proposed by all Offerors including those not in the competitive range, including a comparison with the IGCE.
- (2) For cost-reimbursable acquisitions, the probable cost to the Government of each proposal, including any recommended additions or reductions (examples: quantity and/or level of personnel, equipment, materials). The probable cost should reflect the best estimate of the cost of any contract which might result from the offeror’s proposal. If the Offeror’s approach or plan for accomplishing the work requires a revision in order to be acceptable to the Government, then an assessment of the revision is required to determine the resultant probable cost.
- (3) The differences noted in each proposal regarding business methods, operating procedures, and practices as they impact cost.
- (4) A level of confidence in the most probable cost assessment for each proposal as well as the reasons for the levels.

High: Based upon its cost realism analysis, the Government has a very high level of confidence that the probable cost, which is the Government’s best estimate for the cost of a contract resulting from this offeror’s proposal, correlates very closely to the actual costs that the offeror would incur to successfully implement its proposal.

Medium: Based upon its cost realism analysis, the Government has a reasonable level of confidence that the probable cost, which is the Government’s best estimate for the cost of a contract resulting from this offeror’s proposal, correlates very closely to the actual costs that the offeror would incur to successfully implement its proposal.

Low: Based upon its cost realism analysis, the Government has at best a marginal level of confidence that the probable cost, which is the Government’s best estimate for the cost of a contract resulting from this offeror’s proposal, correlates

very closely to the actual costs that the offeror would incur to successfully implement its proposal.

When cost realism is evaluated, Section M of the RFP should include a cost proposal evaluation approach that may result in a structured point adjustment to Mission Suitability scores for a lack of cost realism (see NFS 1815.304-70 and 1815.305).

In addition to the above, Section M must define any special adjustment factors to be used in the event of a SDB or a HUBZone small business concern submits a proposal in competition with large business.

3.1.2.3 Past Performance

The SEB shall describe how an offeror's Past Performance will be evaluated. Past Performance reflects the accomplishment of work by an Offeror that is comparable to or related to the work/effort being procured. The SEB should solicit from Offerors relevant programs and/or projects of similar size, scope and magnitude to those expected to be encountered in the work being procured and should include past performance in these types of areas: technical, cost, schedule, and management. The Contracting Officer should utilize the Past Performance Database to obtain past performance information of the Offeror's past and/or present contracts. In addition, the Contracting Officer should develop a questionnaire to be included in the RFP for the Offeror to provide to other customers to fill out and submit directly back to the Government. Typically an adjectival rating system similar to that used for Mission Suitability is used to evaluate this factor. However, unlike Mission Suitability, no numerical scoring is used to weight items evaluated under Past Performance. Section M should identify the rating system that will be employed for Past Performance. The following Past Performance adjectival definitions are appropriate for use and inclusion in Section M:

Excellent

Of exceptional merit; exemplary performance in a timely, efficient, and economical manner; very minor (if any) problems with no adverse effect on overall performance; and experience that is highly relevant to this procurement. Based on the offeror's performance record, there is a very high level of confidence that the offeror will successfully perform the required effort. ** (One or more significant strengths exist. No significant weaknesses exist. The mere absence of a significant weakness does not make a proposal meet the excellent rating.)

Very Good

Very effective performance; fully responsive to contract requirements; contract requirements accomplished in a timely, efficient, and economical manner for the most part; only minor problems with little identifiable effect on overall performance; and experience is very relevant to this procurement. Based on the offeror's performance record, there is a high level of confidence that the offeror will successfully perform the required effort. ** (One or more significant strengths exist. Strengths outbalance any weakness.)

Good

Effective performance; fully responsive to contract requirements; reportable problems, but with little identifiable effect on overall performance; and experience is relevant to this procurement. Based on the offeror's performance record, there is confidence that the offeror will successfully perform the required effort. ** (There may be strengths or weaknesses, or both.)

Fair

Meets or slightly exceeds minimum acceptable standards; adequate results; reportable problems with identifiable, but not substantial, effects on overall performance; and experience is at least somewhat relevant to this procurement. Based on the offeror's performance record, there is low confidence that the offeror will successfully perform the required effort. Changes to the offeror's existing processes may be necessary in order to achieve contract requirements. ** (One or more weaknesses exist. Weaknesses outbalance strengths.)

Poor

Does not meet minimum acceptable standards in one or more areas; remedial action required in one or more areas; problems in one or more areas which, adversely affect overall performance. Based on the offeror's performance record, there is very low confidence that the offeror will successfully perform the required effort. ** (One or more deficiencies or significant weaknesses exist.)

Neutral

In the case of an offeror without a record of relevant past performance or for whom information on past performance is not available, the offeror may not be evaluated favorably or unfavorably on past performance [see FAR 15.305(a) (2) (ii) and (iv)].

** (At the Installations' discretion strengths and weaknesses may be assigned in evaluating past performance.)

3.1.3 Section L Proposal Instructions

Section L should provide instructions describing what NASA wants to see in the proposals. Section L shall specify what supporting information should be included in the proposals and the specific format to be utilized. SEB's must ensure that Section L requests all information required for an efficient and accurate proposal evaluation, while also avoiding obtaining excessive information. Requests for information contained in Section L must be grouped by the evaluation factor or Mission Suitability sub-factor under which the information being requested will be evaluated. By doing this, the sequence in Section L will correlate to the sequence used in Section M to describe the evaluation factors and Mission Suitability sub-factors under which proposal data will be evaluated. This correlation increases the probability that offerors will format their proposals in a way that most effectively facilitates an efficient and effective evaluation.

Section L of the solicitation establishes the page limitations for offeror's proposals. When soliciting written proposals, page and text limitations should be clearly established to be consistent with the NFS. Proposal page limitations should be clearly established as firm limits, not as guides. Page limits should be established at the minimum level required for an offeror to adequately address the RFP requirements. Proposal portions for which page limitations are not

applicable should be clearly identified. The use of font size, margin size, special indices, unnumbered section dividers, foldouts on paper greater than 8 1/2 X 11 inches, and the misplacement of page restricted information (e.g. inappropriately placing extra Mission Suitability information in the Cost Volume) must be addressed when establishing page limits. Offerors should be clearly advised that pages submitted in excess of the limitation will not be evaluated and will be returned to the offeror with a letter citing the applicable RFP provision.

3.1.3.1 Oral Proposals

If using oral proposals, consideration should be given to: time limits, record keeping (e.g. audio, video, and transcriptions) number of slides, font size on slides, number and type of participants, extent and nature of the exchanges of information and number and length of breaks. Appropriate limitations are dependent upon the complexity of the procurement.

If oral proposals are used as defined in FAR Part 15, oral proposals may be substituted for, or to augment, written proposal information. The use of an oral proposal approach must be approved by the Procurement Officer prior to preparing the DRFP. Use of oral presentations as a substitute for portions of a proposal can be effective in streamlining the source selection process. However, if oral proposals are used, be cautious to avoid clarifications that could be construed by someone as discussions. To ensure the ability to objectively document that discussions did not occur during the delivery of oral proposals, it is extremely advisable to record or videotape the entire proceeding. See Section 4.3.4 for further discussion of oral proposals.

Whether or not oral proposals are used, detailed proposal instructions should be provided in the RFP's Section L, "Instructions, Conditions, and Notices to Offerors," specifying what supporting information should be included in the proposals and the specific format to be used.

3.1.3.2 Mission Suitability

In the Mission Suitability area, Section L should request very specific information correlating with each of the evaluation sub-factors. Information requested should include a requirement for offerors to deliver a risk mitigation plan as a part of their proposal or identify risk areas inherent in the requirement and/or their proposals and their proposed approaches to minimize the impact of risks identified.

3.1.3.3 Cost/Price

In the Cost area, Section L will provide detailed instructions on how cost information is to be presented and will include electronic spreadsheet cost formats. Cost and Pricing Data shall not be requested for competitive acquisitions. Detailed information other than Cost and Pricing Data should only be requested to the extent necessary for performance of a cost analysis.

Offerors should be advised that NASA may, during discussions or as part of the Final Proposal Revision (FPR) process, request additional pricing information.

3.1.3.4 Past Performance

For Past Performance, Section L should seek to obtain information regarding the offerors' and major subcontractors' relevant past performance in areas including technical performance, contract management, cost performance, schedule, safety and health, and environmental compliance. Past Performance information should be requested from the offeror for it and for its proposed major subcontractors (the term "major subcontractor" should be defined in the RFP; the dollar threshold should be commensurate with the size, scope, and complexity of the acquisition). Section L should ask the offeror to provide detailed information on a prescribed number of contracts (performed by the company element proposed to perform the resultant contract) that the offeror believes to be most relevant in size, scope, and complexity to the procurement action. For the sake of evaluation efficiency, consideration should be given to limiting, the number of past performance references to be provided by the offerors. Section L should also specify the process to be used by the offeror in submitting customer references.

Note: To improve the past performance evaluation process, it is recommended that you customize customer surveys or business management questionnaires, and request they be returned prior to receipt of the Mission Suitability and Cost proposals.

In order to show which contracts have relevant past performance, it is suggested that a matrix be developed listing each contract and identifying five or six critical functions of the SOW. Include instructions to the offerors to insert the appropriate contract number in the first column and the number of personnel in each functional area.

3.1.4 Balance of RFP

The SEB should work very closely with its Contracting Officer to integrate the refined version of the SOW, data requirements, and other documents provided by the requiring organization as part of its PR package with standard clauses and provisions in the unified contract format. Further, in addition to the standard clauses, the SEB should consider any unique performance situations that might be encountered and include clauses that protect NASA's interests. In accordance with NFS 1815.204-70 the SEB will establish page limitations for the respective portions of the RFP.

3.1.5 RFP Synopsis

FAR 5.2, requires Contracting officers to provide access to presolicitation notices through the government point of entry (GPE) and COs must synopsise a proposed contract action before issuing any resulting solicitation requires publication of a pre-solicitation synopsis through the GPE. The synopsis shall be created using the Electronic Posting System (EPS) and posted to both the on-line Federal Business Opportunities (fedbizops) and NAIS via EPS. The EPS synopsis should include:

- A description of the acquisition
- A schedule for release of the draft and final RFP
- Whether an industry briefing or pre-proposal conference is planned
- If an Industry Briefing is planned, the place/date/time and agenda (If a Pre-proposal Conference is planned, this information will be provided with the RFP.)
- The point of contact for additional information.

3.1.6 Draft RFP Review (DRFP)

The SEB and its advisers shall jointly review the fully assembled DRFP before submitting it for its final review in accordance with Installation-specific policies.

3.1.7 Draft RFP Release

In accordance with NFS 1804.7301, the Contracting Officer shall not issue a DRFP until an approved procurement request (PR), containing a certification that funds are available, has been received. However, the contracting office may take all necessary actions up to the point of contract obligation before receipt of the PR certifying that funds are available when: such action is necessary to meet critical program schedules; program authority has been issued and funds to cover the acquisition will be available prior to the date set for contract award or contract modification; the procurement officer authorizes such action in writing before solicitation issuance; and the solicitation includes FAR clause 52.232-18 “Availability of Funds” which shall be deleted from the resultant contract.

The draft RFP shall be released and posted to the NASA Acquisition Internet Service (NAIS) in accordance with NASA Headquarters and Installation policies.

3.2 CONFERENCES & SITE TOURS

In accordance with FAR 15.201 it is often advisable to host a conference or site tour to facilitate the early exchange of information before receiving proposals. Such events provide a means of exchanging information to improve potential offerors’ understanding of the Government’s requirements and enhance the Government’s ability to obtain quality supplies/services and to increase efficiency in proposal preparation, evaluation, negotiation, and award. Some things to consider when conducting a site tour or conference may include:

- Location
 - Accessibility
 - Availability
 - Size
- Security
 - Badging Requirements
 - Foreign Nationals

- Logistics
 - On-Site Transportation
 - Refreshments
- Agenda
 - Formal Presentations
 - Structured Q&A Format

3.3 FINAL RFP DEVELOPMENT

The RFP may be modified as a result of Industry questions and comments provided in response to the DRFP, the Industry Briefing, or as a result of NASA's internal RFP reviews. A summary of the major changes from the DRFP may, if appropriate, be reflected in the final RFP transmittal letter. While all significant comments on the DRFP need to be dispositioned by the SEB and incorporated into the Final RFP, there is no requirement to provide a published response for every comment received from potential offerors.

The final RFP shall clearly establish the due date and local time, as well as identify a location for receipt of proposals from all offerors. Where it will benefit either the offerors in general or the SEB, different dates may be established for separate parts of the proposal (phased proposal submittals). Any decision to have separate due dates must be clearly set forth in the RFP.

3.3.1 Document Repository

The requiring organization should provide to the SEB any Government-owned studies or other documentation (e.g., handbooks, manuals or standards) related to the requirements of the RFP. Documents placed in a document repository should be made available in an electronic form whenever feasible. The SEB should provide access to any Government-owned studies, historical data, workload indicators or other documentation (either NASA or contractor generated) related to the requirements of the RFP. The SEB should review these documents in detail, and if there is any question as to whether or not the documents should be released (e.g. restrictive legends), the matter shall be referred to appropriate Installation Office of Chief Counsel for resolution.

Prior to the RFP release, copies of all RFP related documents shall be made available. The RFP will provide clear instruction as to what documents are available within the repository. This repository can be provided online if the data being made available is appropriate for broad public distribution. Alternatives to electronic distribution include establishing a reading room where interested offerors may review documents pertinent to the acquisition. Such a reading room shall be monitored and may not be located in the building housing the SEB. Subsequent to release of the RFP, offerors should be notified of any changes to the documents made available in the document repository.

3.3.2 Review of Final RFP

In accordance with NFS 1815.203.70, Center Installation reviews and NFS 1815.203-71 Headquarters reviews are required to be completed prior to releasing the Final RFP. It is recommended that SEBs provide an advance copy of the RFP to all designated review personnel prior to meeting with them to receive comments. This enables reviewers to thoroughly review the package and prepare any comments or questions in advance of the meeting. Another key to an effective and successful final RFP review is having the SEB and its advisers perform a thorough preliminary review of the package before submitting the RFP for its final review. In accordance with NFS 1815.203-70, NASA Installations should consider the use of a single review meeting called a Solicitation Review Board (SRB) where all offices having review responsibilities convene to concurrently discuss and disposition comments versus serial reviews. It is imperative that the SSA, or duly delegated representative, review and approve the evaluation factors and their relative importance prior to release of the formal RFP.

Note: For acquisitions subject to NASA's Master Buy Plan, it is important to determine if Headquarters has delegated the RFP's approval to the Installation before releasing it based upon the results of an Installation review. If approval of this milestone has not been delegated to the Installation, then arrangements will need to be made to have Headquarters review the final RFP. The pending release of the final RFP should be synopsized prior to its release.

3.3.3 Release of Final RFP

The final RFP shall be released and posted to the NAIS in accordance with NASA and Installation policies.

3.3.4 Black-Out Notice

Upon release of the final RFP, in accordance with NFS 1815.201, the Contracting Officer shall direct that all personnel associated with the acquisition refrain from communicating with prospective offerors and to refer all inquiries to the Contracting Officer or other authorized representative. This procedure is commonly known as a "black-out notice" and shall not be imposed before release of the RFP. The notice may be issued in any format (e.g., letter or electronic) appropriate to the complexity of the acquisition. Black-out notices are not intended to terminate all communication with offerors. However, all communications shall go through the Contracting Officer who should continue to provide information to all potential offerors in a way that does not create an unfair competitive advantage or reveal proprietary data.

3.4 PRE-PROPOSAL CONFERENCES

A pre-proposal conference to brief prospective offerors may be conducted after a solicitation has been issued, but before proposals are received, in accordance with FAR 15.201. The Contracting Officer, in coordination with management and the SEB, shall make a determination, prior to issuance of the RFP, as to whether a pre-proposal conference is required. Generally, these conferences benefit both the Government and prospective offerors in complex acquisitions where it is necessary to explain or clarify complicated specifications and requirements. A pre-proposal conference is likely to be most beneficial in situations where

there have been significant questions about a solicitation or in situations where the final solicitation incorporates significant changes from a previously released draft solicitation.

The conference shall be scheduled to permit prospective offerors sufficient time after the issuance of the RFP to become familiar with the RFP requirements, yet not too late to allow meaningful use of the information obtained at the conference. The number of participants from prospective offerors allowed to attend should reflect the complexity of the acquisition.

The conference should include a presentation of the significant aspects of the acquisition followed by a question and answer session. A record of all information provided at the conference, together with a copy of all questions and answers shall be provided to all prospective offerors by formal written amendment to the solicitation.

At the pre-proposal conference, it is often advisable to have potential offerors submit any questions they might have in writing. This will better enable NASA to prepare a formal written response to each question to be incorporated in an RFP Amendment.

3.5 RFP AMENDMENTS

The RFP shall be amended if the Government changes its requirements or any terms, and conditions of the RFP during the solicitation period. Additionally, an RFP amendment may also be issued to answer any questions about the RFP or questions received during the pre-proposal conference (if a pre-proposal conference was held) that result in changes to the RFP. Prior to posting, all RFP amendments shall be reviewed and approved in accordance with Installation policies. All amendments issued before the receipt of proposals shall be posted on the NAIS. In the event that an amendment becomes necessary after receipt of proposals Installation Legal Advisor and the appropriate procurement personnel shall be consulted before the amendment is issued (also see FAR 15.206 (e)).

SECTION 4.0 SOURCE EVALUATION

GENERAL INFORMATION

This section identifies the steps to be taken during the proposal evaluation. It discusses the administrative matters involved in preparing for proposal evaluation and how the SEB identifies and documents their evaluation findings, strengths and weaknesses. Finally, this section discusses the process involved in presenting management and the SSA the results of their evaluation.

4.1 RECEIPT OF PROPOSAL ACTIVITIES

4.1.1 Receipt, Log, and Safeguard Proposals

Proposals are to be delivered to the person designated in the RFP. Upon receipt of proposals, that individual is responsible for recording the date and time received, and for ensuring that the unopened proposal(s) are properly safeguarded (normally in the SEB facility) in accordance with the SEB security plan (see Chapter 2). See FAR 15.207 for special instructions regarding unreadable electronic or facsimile proposals.

4.1.2 Disposition of Late Proposals

Any proposal received after the deadline stated in the RFP will be considered a “late proposal” and must be dispositioned in accordance with FAR 15.208. Consult your Installation Legal Advisor prior to rejecting a proposal as “late”.

4.1.3 Determination of Ineligibility, Debarment, or Suspension Status

The Contracting Officer must check the “Excluded Parties List System (EPLS)” to identify if any of the offerors are included on the list. The electronic listing is available via the internet at <http://epls.arnet.gov> and is updated daily. If an offeror is on the list, the proposal should not be opened and, in accordance with FAR 9.405, cannot be evaluated. If an offeror is on the list the Contracting Officer should notify the Procurement Officer and the SEB Legal Advisor. In addition, immediately prior to award, the Contracting Officer shall again review the EPLS to ensure that no award is made to a listed contractor.

4.1.4 Assignment of Proposals

Prior to assignment of proposals, a complete list of all offerors and team members (subcontractors) should be compiled and the list should be reviewed by each SEB member, evaluator, and advisor to reaffirm that there is no potential conflict of interest (see Section 2.6.1)

The SEB Chairperson or Recorder shall assign a copy (or specific volume) to the SEB members and/or evaluators. The “original” of each proposal volume should be safeguarded and retained by the Contracting Officer for the official file. Each remaining copy of the proposal should be sequentially numbered and annotated. The assignment of a numbered copy to an individual SEB member/evaluator needs to be recorded with the understanding (by signed receipt) that the assigned individual is personally responsible for the safeguarding of that copy within the SEB area. Note that proposals should never be taken from the source selection

facility without a very good reason for doing so and even then only if appropriate safeguards are in place to prevent them from being seen by or accessible to unauthorized personnel and with the specific approval of the SEB Chairperson and Contracting Officer.

4.2 RFP COMPLIANCE REVIEW AND INITIAL ACTIVITIES

4.2.1 Proposal Page Count and Administrative Assessment

The SEB Chairperson, Recorder, and Contracting Officer are responsible for conducting a comprehensive review of the proposals to determine that they are essentially complete (include all required volumes, correct number of copies, disks, etc.) and that they do not exceed the page limitations set forth in the RFP. Any incident of missing material needs to be documented and communicated with the offeror by the Contracting Officer. Be very careful about missing information and communications with offerors. Offerors cannot correct many problems after the date for receipt of proposals. Any case where the proposal exceeds the proposal page limitations needs to be documented and dispositioned as stated in the RFP. Consult the SEB Legal Advisor prior to sending pages back or requesting missing data.

4.2.2 Identification of Initially Unacceptable Proposals

The initial evaluation of a proposal shall not be completed if it is determined that the proposal is unacceptable because of the reasons enumerated in NFS 1815.305-70. The Contracting Officer needs to document the reason for discontinuing evaluation of the proposal on this basis. Any determination to discontinue evaluation of a proposal constitutes a matter requiring legal review in accordance with NPD 5101 "Requirements for Legal Review of Procurement Matters". In addition, the Installation Procurement Officer and SSA need to be notified of any such determination. If the decision is made to discontinue evaluation of a proposal, the offeror must be notified in writing and it is recommended that this notification provide complete rationale for the determination of initial unacceptability.

4.2.3 Equal Employment Opportunity (EEO) Compliance and VETS-100 Compliance Reviews

The Contracting Officer needs to review the Office of Federal Contract Compliance Programs (OFCCP) National Pre-award Registry at url: <http://www.dol-esa.gov/preaward/> and verify that all offerors are listed as being EEO compliant. In the event an offeror is not listed, an EEO compliance review needs to be initiated in accordance with Installation procedures.

In accordance with FAR 22.13, Contracting Officer must not obligate or expend funds with a contractor that has not submitted a required annual Form VETS-100 Report "Federal Contractor Veterans' Employment Report" in the preceding fiscal year if the contractor was subject to the reporting requirements of 38 U.S.C. 4212(d) for that fiscal year. The Contracting Officer (or designee) needs to verify that all offerors are current with submission of the VETS-100 Report by: (a) querying the Department of Labor's VETS-100 database via the Internet at <http://www.vets100.cudenver.edu/vets100search.htm> using the validation code "vets" to proceed with the search in the database; or (b) contact the VETS-100 Reporting Systems via e-mail at verify@vets100.com for confirmation, if the proposed contractor represents that it has submitted the VETS-100 Report and is not listed in the database.

4.2.4 Central Contractor Registration Verification

In accordance with FAR 4.1102, unless an enumerated exception applies, a contract may not be awarded to a prospective contractor who has not registered in the Central Contractor Registration (CCR) database. In accordance with FAR 4.1104, the contracting officer shall verify that the prospective contractor is registered in the CCR database; and should use the DUNS number or, if applicable, the DUNS+4 Number to verify registration-Via the Internet at <http://www.ccr.gov> or by calling toll-free: 1-888-227-2423, commercial: (269) 961-5757.

4.2.5 Review of Representations and Certifications

The Contracting Officer (or designee) needs to carefully review the completed Representations and Certifications (from Section K of the RFP and the offeror's annual representations and certifications on the On-line Representation and Certification Application (ORCA) website) of the offerors to determine if there is any reason, based on the representations and certifications, that may preclude award of contract to an offeror (e.g., size standard certification for a set-aside). Any significant problem indicated by this review needs to be brought to the attention of the Installation Legal Advisor and SEB Manager/Advisor. In accordance with FAR 4.1201, prospective offerors shall complete electronic annual representations and certification and certify as current in FAR provision 52.204-8. The website for accessing the annual representations and certifications is: <http://orca.bpn.gov>

4.2.6 Initiation of Audits

Since Defense Contract Audit Agency (DCAA) cost audits may require a significant amount of time (a minimum of 30 days) to complete, the need for, and extent of, DCAA assistance needs to be ascertained and requested as soon as possible after receipt of proposals. It is a good practice to request in the solicitation that offerors send a copy of their cost proposal directly to their cognizant DCAA/DCMA audit offices in an effort to reduce long-lead times. The request for audit assistance, if needed, should be kept to the minimum level necessary (e.g., verification of direct and indirect rates and factors) to effectively perform the cost evaluation. Any requests for audit shall also clearly identify that any cost information must be treated as Source Selection Information in accordance with FAR 3.104, and there should be no communication with the offeror by DCAA concerning audit findings. Rate information (e.g., Forward Pricing Rate Agreements) and the status of the offeror's business systems (e.g., purchasing system, accounting system, estimating system and property control system) may also be available from the Cognizant Defense Contract Management Agency (DCMA) office.

4.2.7 Receipt of a Single Proposal

In accordance with NFS 1815.305-71, if only one proposal is received in response to the RFP, the Contracting Officer shall prepare a written memorandum in the contract file describing the circumstances surrounding the receipt of a single proposal as well as a determination whether the solicitation is flawed or unduly restrictive and determine if the proposal is an acceptable proposal prior to releasing the proposal to the SEB for evaluation. Note: In making this determination the Contracting Officer should examine and consider any "no bid" responses received and may need to contact prospective offerors to ascertain why they did not submit proposals. The SSA needs to be briefed on these findings and will direct the Contracting

Officer to proceed as described in NFS 1815.305-71. This procedure also applies when the number of proposals received is equal to the number of awards contemplated.

4.3 INITIAL EVALUATION

Many protests are lost because the Government failed to follow or document compliance with stated evaluation processes and criteria, so process is stressed throughout this section. If award is made without discussions the initial evaluation will be the FINAL evaluation, so the consensus findings from initial evaluation must be of the high quality and fidelity needed for the SSA to make a proper selection. To simplify the writing of this guide, this section and Section 4.6 – FINAL EVALUATION are written assuming that the SEB is a single entity with no committees. If the SEB is organized into committees (e.g., a Technical Committee for Mission Suitability and a Business Committee for Cost/Price and Past Performance), substitute “committee members” for “SEB members” or “voting members” as appropriate. Neither approach is endorsed as superior; it is the role of the SEB Chairperson and the Contracting Officer to decide on the most effective way to organize the SEB.

4.3.1 MISSION SUITABILITY

4.3.1.1 Individual Findings – Identifying Strengths and Weaknesses

Prior to reading proposals, all evaluators shall be familiar with the evaluation criteria contained in Section M of the RFP, as well as the proposal instructions in Section L and the rest of the RFP. Each voting SEB member shall thoroughly read and evaluate each proposal in its entirety. Personnel assigned to committees shall thoroughly read and evaluate those portions of the proposal assigned to them for review. The evaluation plan (if applicable) or the SEB shall set forth the method for determining the order in which proposals shall be evaluated (e.g., alphabetical order by offeror name). All evaluators shall develop findings (e.g. strengths or significant strengths, weaknesses or significant weaknesses, or deficiencies,) to be considered by the SEB in accordance with the FAR, NFS, and Section M of the RFP. [See Section 2.7, “SEB Evaluation Plan” of this guide for strength and weakness definitions.] The SEB evaluators shall ensure that their assessment is focused on the offeror’s proposal as it relates to the evaluation criteria identified in Section M of the RFP and not as it compares to the other Offeror’s proposals. It is preferable to keep interaction between individual evaluators to a minimum at this stage, so as not to prematurely stifle differing viewpoints before consensus discussions take place. Use of electronic tools such as evaluation support software or databases may streamline the gathering, sorting, tracking or reporting of numerous evaluator comments or SEB findings. Whether or not electronic tools are used, proposals shall be evaluated in strict accordance with the evaluation criteria published in Section M of the RFP. It is not permissible to evaluate proposals against any criteria or weightings other than those that were published in the RFP.

4.3.1.2 Reaching Consensus on Findings – Wording and Significance

“Consensus” as used in this guide, means precisely what the dictionary definition says: “collective opinion; general accord; agreement”. “Consensus” does not mean the opinion of the majority of the SEB or of only the SEB Chairperson. Consensus discussions among the SEB Voting Members should continue on a particular finding until (a) all SEB Voting Members agree that a consensus has been reached, or (b) the SEB Voting Members agree to

disagree, and the dissenter(s) prepare a minority opinion. The latter rarely happens, but the mere existence of that option underscores the importance of being able to reach consensus on all findings. The SEB Chairperson is responsible for ensuring that each voting member is given the opportunity to express their opinion on each proposed finding.

When documenting each finding, it is very important to clearly identify the particular proposal attribute(s) of interest to the Government as well as document the reasoning or rationale for determining it to be a strength, weakness or deficiency. A finding should be written in a way that clearly describes the basis for the conclusion (e.g. strength or weakness) and is supported by explanatory rationale. As a rule of thumb, the evaluator should write the finding including supporting rationale, in a clear and logical manner so that if it is read by an outsider it would be clearly understood. The General Accountability Office has consistently held that Agencies have broad discretion in the evaluation process. However, evaluations (findings) must be able to withstand scrutiny as to their reasonableness and must be made in accordance with the RFP's stated evaluation criteria. Agency decisions have been overturned if their evaluations are irrational, arbitrary, or not based on evidence in the record. Therefore, each finding approved by the SEB should capture the SEB's collective reasoning and not merely paraphrase or provide excerpts from the proposal. For this reason, the SEB is advised to avoid merely identifying something proposed as a strength, weakness, or deficiency without clearly documenting the SEB's collective logic or rationale for designating it as a strength, weakness, or deficiency. Similarly the SEB should explain its logic or rationale for assigning increased significance to any individual finding designated as a significant strength, significant weakness or deficiency. Each Mission Suitability finding should be clearly tied to a specific Mission Suitability Sub-factor. Each Mission Suitability finding should reference the proposal page number(s) from which the finding originated. This will assist the voting members during consensus discussions.

Each SEB must fully document all of the findings used to reach consensus and which were considered during the rating and scoring process. This documentation of findings is also referred to as the "SEB Report." By writing thorough, well-explained findings that clearly communicate benefits or risks associated with each proposal, the SEB report will be of increased value to the SSA when making the selection decision. Findings should include the specific location(s) (e.g. proposal volume, page numbers, illustrations or figure numbers) in the proposal that contain the proposed information addressed by the finding. These proposal citations will enable traceability for the SEB, SSA or others to quickly refer back to the proposal for any particular finding if necessary.

Documenting Evaluation Findings

Findings shall be clear and concise with supporting rationale (simple conclusive statements are inadequate). Having an SEB Report is an excellent way to document SEB findings. If an SEB elects not to have an SEB Report, then the SEB must ensure that charts to the SSA are concise while also documenting all findings the SEB used to reach consensus. A finding shall be structured to include a conclusion and rationale as follows:

Conclusion:

Generally 1 to 2 sentences – A broad statement based on facts. (Examples: demonstrates an excellent understanding of..... or proposed design exceeds the requirement of/for....)

Rationale:

Facts (most lengthy) – which includes specific examples, relevant to conclusion, correlates to the offeror's proposal and clearly describes the SEB assessment of the proposal in a way that does not rely on reciting proposal contents. It is a good practice to address or include an impact statement (1 to 2 sentences) which relates directly to risk/benefit to the Government (technical, schedule, cost, safety). Evaluations must consider the probability of success, the impact of failure, and must identify associated risks or benefits with an identified weakness or strength. Examples: proposed approach requires repeated critical testing resulting in a substantial delay for delivery; high employee turnover rate would adversely impact effective/efficient operations.

Risks which impact cost must be considered in the Cost/Price evaluation (Cost Realism Adjustment).

After consensus Mission Suitability findings have been developed for each offeror, the SEB should review each set of findings to ensure that it has consistently applied the Section M evaluation criteria and the established definitions for significant strengths and weaknesses, strengths and weaknesses, and deficiencies for all proposals evaluated. It is not unusual for the SEB to make adjustments to its consensus findings at this stage in the process, especially with regard to which strengths and/or weaknesses are considered significant. Once the SEB is satisfied that the process for developing Mission Suitability findings has been followed consistently and fairly, it can proceed to the development of mission suitability sub-factor adjective ratings and scores.

4.3.1.3 Sub-factor and Adjective Ratings and Scores

The SEB should reach a consensus on an offeror's adjective rating for a particular sub-factor prior to developing a consensus score for that same sub-factor. Special attention must be paid to "gates" that exist within the NFS adjective definitions; these gates hinge on the presence or absence of significant strengths, significant weaknesses and deficiencies, and must be strictly adhered to at all times. Once consensus is reached for a sub-factor, the SEB then must develop a consensus score within the range allowed for the assigned adjective (e.g., the score must be between 71% and 90% if the SEB's consensus adjective rating is "Very Good"). Once the consensus percentile score is decided for an offeror, the score is then multiplied by the available points for that sub-factor to calculate the total points earned.

In accordance with NFS 1815.305 (a)(3) *Technical Evaluation*. The Mission Suitability sub-factors and the total Mission Suitability factor shall be evaluated using the following adjectival ratings, definitions, and percentile ranges:

<u>ADJECTIVAL RATING</u>	<u>DEFINITIONS</u>	<u>PERCENTILE RANGE</u>
Excellent	A comprehensive and thorough proposal of exceptional merit with one or more significant strengths. No deficiency	91-100

	or significant weakness exists.	
Very Good	A proposal having no deficiency and which demonstrates over-all competence. One or more significant strengths have been found, and strengths outbalance any weaknesses that exist.	71-90
Good	A proposal having no deficiency and which shows a reasonably sound response. There may be strengths or weaknesses, or both. As a whole, weaknesses not off-set by strengths do not significantly detract from the offeror's response.	51-70
Fair	A proposal having no deficiency and which has one or more weaknesses. Weaknesses outbalance any strengths.	31-50
Poor	A proposal that has one or more deficiencies or significant weaknesses that demonstrate a lack of overall competence or would require a major proposal revision to correct.	0-30

It is often helpful to hold consensus discussions for adjective ratings and scores one sub-factor at a time. This approach allows the SEB members to keep the pertinent Section M language for each sub-factor fresh in their minds as each firm's findings are considered. When using this approach, the established order of evaluation, as set forth in the Evaluation Plan (or by the SEB if no Evaluation Plan exists), should still be followed.

4.3.2 PAST PERFORMANCE

4.3.2.1 Individual Findings

Just as in Mission Suitability, the individual voting members should review the entire Past Performance volume of each offeror, plus any other information available (e.g., NF-1680s on the prime contractors and their significant subcontractors), and develop individual findings in the areas of quality of performance and relevance of experience. The FAR, the NFS, and the RFP all identify specific areas of Past Performance that must be evaluated (e.g., safety and health), and the voting members should follow all applicable guidance from these documents when developing individual findings. If the individual evaluator cannot find relevant experience for one or more parts of the SOW, this fact should be noted in his/her individual findings. While it is acceptable to have individual evaluators contact references for further information, it is not desirable to have multiple evaluators contact the same reference. Therefore, the SEB may want to designate specific individuals to contact specific references, and then report back to the group. It is possible that the SEB may choose not to contact any references, and that is a perfectly acceptable course of action if the written record is clear.

4.3.2.2 Adverse Past Performance Information

Prior to the elimination of any offeror from the competition (at competitive range or selection), the FAR mandates that the Contracting Officer communicate to the offeror any "adverse past performance information to which the offeror has not yet had an opportunity to respond". Except in rare cases when the adverse performance happens late in the evaluation process, the

presence of adverse past performance to which the offeror has not yet responded should be identified during initial evaluations. Whenever such adverse past performance information is found, if the offeror has not had a previous chance to rebut through the NF-1680 feedback process or some other formal channel (e.g., other agency PP databases, award fee determination) the Contracting Officer in consultation with the Legal Advisor shall prepare letters to the impacted offerors in which they are asked to respond to the adverse information. Such communications do not constitute discussions under the FAR, and therefore may occur before any competitive range determination.

4.3.2.3 Reaching Consensus on Findings and Factor-Level Adjective Ratings

After all of the activities in 4.3.2 above are complete, the SEB shall meet and discuss all of the Past Performance findings of the individual voting members. Just as in Mission Suitability, the SEB shall develop findings for the Past Performance Factor that are the consensus of the voting members. Once the consensus findings are completed, the SEB shall then compare the findings to the descriptions for each of the adjective ratings under Past Performance and arrive at a consensus adjective rating for each offeror.

4.3.3 COST/PRICE EVALUATION

The SEB shall evaluate cost or price in strict accordance with FAR 15.305(a)(1) and NFS 1815.305(a)(1) as stated within the solicitation. Additional guidance is available in the NASA Procurement Library under the heading of Cost, Pricing, and Audit Resources entitled “Guide for Cost Realism”.

Price Analysis: Normally, competition establishes price reasonableness. Therefore, when contracting on a firm-fixed-price or fixed-price with economic price adjustment basis, comparison of the proposed prices will usually satisfy the requirement to perform a price analysis, and a cost analysis need not be performed. In limited situations, a cost analysis (see FAR 15.403-1(c)(1)(i)(B)) may be appropriate to establish reasonableness of the otherwise successful offeror's price. When contracting on a cost-reimbursement basis, evaluations shall include a cost realism analysis to determine what the Government should realistically expect to pay for the proposed effort, the offeror's understanding of the work, and the offeror's ability to perform the contract. One example of when you would perform a cost analysis would be if after you have obtained competition from two or more offerors, you are not convinced that the price of the otherwise successful offeror (i.e., the offer that represents the best value) is a reasonable price.

Cost Analysis: When contracting on a basis other than firm-fixed-price, the Contracting Officer shall perform price and cost realism analyses to assess the reasonableness and realism of the proposed costs. A cost realism analysis will determine if the costs in an offeror's proposal are realistic for the work to be performed, reflect a clear understanding of the requirements, and are consistent with the various elements of the offeror's technical proposal.

The analysis should include:

- The probable cost to the Government of each proposal, including a complete description of

any recommended additions or reductions in materials, equipment, labor hours, direct rates, and indirect rates. The probable cost should reflect the best estimate of the cost of any contract that might result from that offeror's proposal.

- The differences in business methods, operating procedures, and practices as they affect cost.
- A level of confidence in the probable cost assessment for each proposal (see NFS 1815.305(a)(1)(B)(c) and Section 3.1.2.2 of this guide).

The cost realism analysis may result in adjustments to Mission Suitability scores in accordance with the procedure described in NFS 1815.305(a)(3)(B) as follows:

When contracting on a cost reimbursement basis, the Mission Suitability evaluation shall reflect the results of any required cost realism analysis performed under the cost/price factor. A structured approach shall be used to adjust Mission Suitability scores based on the degree of assessed cost realism. An example of such an approach would: (1) establish a threshold at which Mission Suitability adjustments would start. The threshold should reflect the acquisition's estimating uncertainty (i.e., the higher the degree of estimating uncertainty, the higher the threshold); (2) use a graduated scale that proportionally adjusts a proposal's Mission Suitability score for its assessed cost realism; (3) affect a significant number of points to induce realistic pricing; and (4) calculate a Mission Suitability point adjustment based on the percentage difference between proposed and probable cost as follows:

<u>Services</u>	<u>Hardware Development</u>	<u>Point Adjustment</u>
+/- 5 percent	+/- 30 percent	0
+/- 6 to 10 percent	+/- 31 to 40 percent	-50
+/- 11 to 15 percent	+/- 41 to 50 percent	-100
+/- 16 to 20 percent	+/- 51 to 60 percent	-150
+/- 21 to 30 percent	+/- 61 to 70 percent	-200
+/- more than 30 percent	+/- more than 70 percent	-300

The cost or price evaluation, specifically the cost realism analysis, often requires a technical evaluation of proposed costs. Contracting officers may provide technical evaluators a copy of the cost volume or relevant information from it to use in the analysis.

A viable cost realism analysis requires a thorough technical evaluation of each proposal to ensure that each offeror will be able to satisfy the requirements of the contemplated contract with the types and quantities of labor or non-labor resources proposed. While each proposed approach may reasonably require different types or levels of resources than other approaches, it is important to ascertain whether the proposed approach will enable the offeror to accomplish the work with the resources it proposes. If the SEB determines that a proposal does not adequately demonstrate the offeror will be able to perform the work with the resources proposed, the SEB may determine this to be a weakness that requires a probable cost adjustment. In addition to documenting the Mission Suitability weakness, the SEB should

document its rationale for any specific resource adjustments it believes would be required to perform the work using the methods proposed by the offeror. Each documented SEB recommended resource adjustment should be provided to the price analyst or appropriate SEB committee for inclusion in the probable cost calculation. Simply calculating the amount by which the resources proposed differ from those used to develop the Government estimate shall not constitute the basis for assigning a weakness and making a corresponding probable cost adjustment.

4.3.4 ORAL PRESENTATIONS – ADDITIONAL CONSIDERATIONS

While the FAR permits the use of oral presentations, some risk is involved when utilizing oral presentations therefore SEBs should only use oral presentations when appropriate for the acquisition. Oral presentations may be most useful when used for acquisitions where less than five (5) proposals are anticipated to be received, to evaluate key personnel and past performance, and for services. In the event that oral proposals are utilized, SEBs are strongly encouraged to follow the procedures set forth below, especially with regard to making video recordings of the proceedings.

Oral presentations can be used for Mission Suitability, Past Performance, or both. They can also be used to either supplement written proposal volumes or to replace them. In some acquisitions oral presentations are used to streamline the evaluation process, and at other times they are used to allow the SEB to obtain a better understanding of the Offeror's technical approach or past performance.

The RFP should set clear and concise instructions on the amount of material to be presented. It is strongly recommended that limits be placed on the following: (1) number of presentation charts, (2) font size used within the charts, (3) time allotted for the presentation, (4) content (e.g., Past Performance should not be addressed in Mission Suitability oral presentations), (5) number of offeror participants, and (6) the oral presentation charts be due to the Government on the same date. A dedicated facility is needed to conduct oral presentations. Another recommended restriction is that video presentations by the offerors not be allowed due to cost considerations. It is also preferable to require that copies of the presentation charts be submitted at least a week or two prior to the planned time for presentations.

It is important to video record oral presentation sessions, including all remarks and instructions made by Government personnel. These video recordings can be referred to later by the SEB (individually or as a group) if necessary. It is also a good practice to give a copy of the recording to the offeror, as well, so that all parties have identical records of the presentation.

If oral presentations take place before competitive range, great care must be taken to avoid entering into discussions with the offerors. Clarification questions may be asked, but this should be done only after the SEB members caucus with the Contracting Officer and Legal Advisor to make sure that the questions are truly clarifications, and do not cross the line into discussions.

Once the oral presentations are complete, the SEB should treat the presentation charts, their notes from the oral sessions, and the video recordings just like any other part of the proposal.

That is, they should compare the material against the Section M evaluation criteria and develop findings accordingly. Generally, no other considerations, such as presentation style or demonstrated public speaking ability, should be used in developing findings. The SEB should focus its evaluation on the content of the presentation, not the style or flair with which it is delivered.

4.3.5 FINAL REVIEW OF ALL SUB-FACTORS AND FACTORS

This activity is the final step before the conclusion of initial evaluations. This is not a new evaluation but rather a verification and validation that the SEB's consensus, rating, and scoring were fairly and consistently applied in accordance with the RFP evaluation criteria. The voting members should first study all of the findings, ratings and scores individually, and then come together as a group to discuss their opinions on the fidelity of the SEB's work product to the stated evaluation criteria. Changes can be made at this stage as well if the SEB reaches a consensus decision to do so; such changes and the reasons therefore should be thoroughly documented in the record. If discussions are deemed necessary, the findings as they exist after this final review will serve as the basis for the competitive range determination. If award is made without discussions, these findings will be used to prepare the SSA presentation materials (see Section 4.6.4 below), and will serve as the basis for the source selection decision.

4.4 EXCHANGES WITH OFFERORS AFTER RECEIPT OF PROPOSALS

Following the submission of proposals, it may be necessary for the Government to communicate with offerors in order to:

- more fully understand what is being proposed;
- decide whether a competitive range needs to be established (see Section 4.5.2); or
- disclose proposal weaknesses, including adverse past performance.

FAR 15.306, identifies three types of such "exchanges":

- clarifications and award without discussions;
- communications with offerors before establishment of the competitive range; and
- exchanges with offerors after establishment of the competitive range. The first two of these types is covered in this section of the handbook; the third type (negotiations or discussions) is covered under Section 4.5.4.

To properly understand permissible communications, it is important to distinguish "discussions" from "clarifications." FAR defines clarifications as "limited exchanges, between the Government and offerors, that may occur when award without discussions is contemplated" [15.306(a)]. Discussions are defined as "negotiations that occur after establishment of the competitive range that may, at the Contracting Officer's discretion, result in the offeror being allowed to revise its proposal" (FAR 15.306(d)). The phrase "revise its proposal" is clearly intended to mean changing the terms of an offer such as price, time of performance, description of work, or other aspects of a proposal that will be incorporated into the resultant contract.

It is imperative that a complete and accurate written record be kept of all communications with offerors. It is strongly encouraged that (except for oral discussions—see below) Government communications be initiated in the form of written correspondence on Agency letterhead and mailed “return receipt requested.”

4.4.1 Limits on Exchanges: Government personnel shall not conduct any communications that: (1) favor one offeror over another; (2) reveal an offeror's technical solution or any information that would compromise an offeror's intellectual property to another offeror; (3) reveal an offeror's price without that offeror's permission (4) reveal the names of individuals providing reference information about an offeror's past performance; or (5) knowingly furnishes source selection information in violation of FAR 3.104.

4.4.2 Clarifications and Award without Discussions. If the solicitation informs potential offerors of the Government’s right to seek clarifying information without discussions (see provision at 52.215-1), and one of the proposals has no deficiencies, the evaluation team should consider the feasibility of not holding discussions. FAR 15.306(a) permits “limited exchanges” with offerors when it is necessary to “clarify certain aspects of proposals” (for example, “the relevance of an offeror’s past performance” and querying an offeror on “adverse past performance information”) and when it is necessary to “resolve minor clerical errors.” Note the FAR’s discretionary language: when award without discussions is anticipated, the Government may, or may not, conduct clarifying communications. Nevertheless, Contracting Officers are encouraged to clarify known ambiguities found in a proposal, but shall seek guidance from Legal and Procurement Management prior to clarifying proposal ambiguities.

Distinguishing between clarifications and discussions may be difficult, and caution should be used to ensure that seeking clarifications does not result in discussions. Clarifications are intended to assist the Government in understanding what has been proposed or, as illustrated by the past performance examples above, in determining a company’s capability to perform. The fact that clarifications cannot result in revisions to the terms of an offer such as price, time of performance, or description of work is an excellent way to distinguish clarifications from discussions. In making this distinction, Contracting Officers are encouraged to seek early guidance from their Installation’s Legal Advisor and procurement management.

Contracting Officers are further cautioned that if inquiries with one offeror do result in discussions and a proposal revision, all other offerors must also be afforded the same opportunity to participate in discussions and revise their offers.

4.4.3 Communications with Offerors Before Establishment of the Competitive Range. When it is determined to establish a competitive range, FAR permits communications “for the purpose of addressing issues that must be explored to determine whether a proposal should be placed in the competitive range.” Note that the Government is mandated to conduct certain communications with regard to past performance. Section 15.306(b)(1) of the FAR provides that such communications shall be held with offerors “whose past performance is the determining factor preventing them from being placed in the competitive range” and “shall address adverse past performance information to which the offeror has not previously had an opportunity to respond.”

The Government is not similarly constrained with regard to other inquiries. For example, exchanges may be held with offerors whose inclusion or exclusion from the competitive range is uncertain. Communications may also address “ambiguities in the proposal or other concerns (e.g., perceived deficiencies, weaknesses, errors, omissions, or mistakes...) and “information relating to relevant past performance.” See FAR 15.306(b)(1)(ii) and 15.306 (b)(3)(i) and (ii).

However, Contracting Officers are reminded that inquiries prior to establishment of the competitive range are intended to gain an understanding of the proposal and to facilitate the competitive range decision. However, these inquiries must not result in a revision to the terms of an offer (such as price, time of performance, or description of work). In the event proposal mistakes are discovered, correction of which would likely result in a revision to the offer, it is imperative that a Legal Advisor and Contracting Officer expertise be consulted prior to permitting correction of that mistake. Otherwise, it may be determined that such correction resulted in discussions and that all other offerors must be provided a similar opportunity to revise their offers.

4.5 AWARD WITHOUT DISCUSSIONS/COMPETITIVE RANGE DETERMINATION ACTIVITIES

4.5.1 Award Without Discussions

FAR 15.306, provides that an award may be made without discussions if the solicitation states that the Government intends to evaluate proposals and make award without discussions. This process omits the competitive range determination, discussions/final proposal revisions (FPR) and final evaluation phases of the SEB process.

Making award without discussions entails selecting a proposal based on the initial evaluation findings and accepting that proposal “as is” inclusive of weaknesses and at the contract value proposed. Only limited communications are permitted concerning clarification of certain aspects of the proposals (e.g., the relevance of an offeror’s past performance information and adverse past performance information to which the offeror has not previously had an opportunity to respond) or to resolve minor or clerical errors (FAR 15.306). See Section 4.4 for additional guidance relative to these communications. Therefore, this option should be considered if there is a clearly superior proposal that: (1) contains no deficiencies or significant weaknesses that require correction before contract award; (2) contains no proposed exceptions to contract clauses that are unacceptable to NASA; and (3) includes a proposed contract value that is realistic, reasonable, and within any budgetary/funding limitations or constraints.

The SSA needs to be involved early in the decision to award without discussions since the SSA may either make a selection decision based on the initial evaluation findings or direct the Contracting Officer to conduct discussions with all offerors in the competitive range. If the SSA’s final decision is to conduct discussions and the SEB has not begun preparations for conducting discussions, a significant delay in completing the SEB process and awarding a contract may result.

The presentation of initial findings to the SSA needs to be in sufficient detail to permit either a source selection decision for award without discussions or establishment of a competitive range. Therefore, the level of preparation for this presentation should be commensurate with that for a final evaluation presentation as described in Section 4.6 of this guide.

4.5.2 Establishing the Competitive Range

In accordance with FAR 15.306, if discussions are to be conducted, a competitive range must be established. A competitive range is established based on the initial evaluation findings against all the evaluation factors included in the solicitation and is comprised of the most highly rated proposals. The competitive range may be further reduced for purposes of efficiency if the number of most highly rated proposals exceeds the number at which an efficient competition can be conducted, and the solicitation notified offerors that the competitive range may be limited for this purpose. NASA has established as a working goal that a competitive range will include no more than 3 proposals (NFS 1815.306). Note, however, that this is only a goal. Contracting officers should not be arbitrary in determining the competitive range; rather, they should include in the competitive range those proposals that are most highly rated and in a number that promotes efficient competition, as is required by FAR 15.306(c). The Contracting Officer establishes and the SSA should concur in the competitive range and the level of preparations for presentation of initial findings should be commensurate with that described in Section 4.6 of this guide.

4.5.3 Competitive Range Notifications and Pre-Award Debriefings

After establishment of the competitive range, an individual written notification to each offeror of their status (inclusion or exclusion) needs to be made. For offerors included in the competitive range, the notification will either initiate discussions or provide information relative to the commencement of discussions. For offerors excluded from the competitive range, the notification (see FAR 15.503) advises the offeror that its proposal is outside the competitive range since it was not among the most highly rated proposals based on initial evaluation of proposals in accordance with the evaluation factors set forth in the solicitation; and explains the basis for the determination. This notification also advises the offeror that if requested, a debriefing of the proposal in accordance with FAR 15.505 and 15.506 (either a pre-award or post-award debriefing at the offeror's discretion) will be provided; the method to be followed for requesting a debriefing (e.g., written request, point of contact, address); and that no revisions to the proposal will be considered.

If the unsuccessful offeror requests a pre-award debriefing, in accordance with FAR 15.505, then the guidance provided for pre-award debriefings in Procurement Information Circular (PIC) 04-11 "NASA Procurement Debriefing Guide", shall be followed. At the offeror's request, the debriefing may be delayed until after award and will be provided as a post-award debriefing. (See Section 6 of this guide)

4.5.4 Exchanges with Offerors After Establishment of the Competitive Range (Discussions)

Negotiations are exchanges with offerors in the competitive range. This type of communication is also referred to as discussions and both terms are used synonymously in this

guide. The primary purpose of discussions is to obtain the best value for the Government in terms of price and requirements. Specific objectives are to:

- disclose proposal weaknesses;
- correct any terms of a proposed contract, including price, schedule, or technical requirements;
- increase competition;
- encourage offerors to submit their most favorable and realistic cost/price proposal; and
- ensure receipt of an acceptable model contract for each offeror.

FAR 15.306(d)(3) provides that at a minimum, the Contracting Officer must generally indicate to, or discuss with, each offeror the deficiencies, significant weaknesses, and adverse past performance information to which the offeror has not yet had an opportunity to respond. Usually it is in the best interest of the Government to expand the scope of discussions to discuss other aspects of the offeror's proposal that could be altered or explained to enhance materially the proposal's potential for award. However, the Contracting Officer is not required to discuss every area where the proposal could be improved. Moreover, during discussions the Contracting Officer shall not suggest or lead offerors and must avoid transfusing data from other proposals. The scope and extent of discussions are a matter of Contracting Officer judgment (see FAR 15.306 (e) for limitations).

A thorough assessment of the initial proposal will help to ensure that all pertinent questions are asked, all weaknesses are disclosed, discussions are comprehensive, and the need for multiple rounds of negotiations minimized. Discussions are tailored to each offeror's proposal, and must be conducted by the Contracting Officer with each offeror within the competitive range. Generally, having face-to-face negotiations after sending written questions to each offeror in the competitive range is one of the best ways to conduct meaningful discussions.

Each offeror will be provided an opportunity to respond to the findings in writing, orally, through proposal revisions, or some combination of these methods. The notice will also identify the time and place for receipt of responses and the method (e.g., written, fax, e-mail, media, etc.) of offeror responses. The notice should describe the format and number of copies of the expected responses. The evaluation team should decide if it wants proposal revisions in advance of FPR; if the revisions should consist of revision pages to the basic proposal or stand alone additional pages; how and what page limitation rules apply. The late proposal and modification of proposal rules should be cited in the notification as applicable to the date and time set for delivery of offeror responses.

The Offeror's response to matters raised during discussions may result in the evaluation team's identification of additional items that remain to be addressed. At the discretion of the Contracting Officer, continued discussions may be necessary in order to ensure identification of all substantive weaknesses and receipt of adequate responses from each offeror. Discussion items may include:

- the adequacy of the offeror's responses to items previously discussed (e.g. written responses to the weaknesses);

- weaknesses or deficiencies that have not been addressed by discussions;
- new weaknesses or questions resulting from prior discussions;
- negotiation of increased performance beyond any mandatory minimums (if the solicitation stated that evaluation credit would be given for technical solutions exceeding mandatory minimums);
- suggestion to offerors that have exceeded the mandatory minimums to reduce them and offer a potential decrease in price;
- specific terms and conditions in the model contract (e.g. key personnel clause or other items to be completed by the offeror in its FPR); and
- cost or price issues.

If, anytime during discussions, an offeror originally in the competitive range is no longer considered to be among the most highly rated offerors being considered for award, that offeror may be eliminated from the competitive range whether or not all material aspects of the proposal have been discussed, or whether or not the offeror has been afforded an opportunity to submit a proposal revision (see FAR 15.307(a) and FAR 15.503(a) (1)). If an offeror's proposal is eliminated or otherwise removed from the competitive range, no further revisions to that offeror's proposal shall be accepted or considered. The SSA shall be involved in this determination based upon input from the SEB.

4.5.5 Final Proposal Revisions (FPR)

Following the conclusion of discussions with all offerors in the competitive range, each offeror still in the competitive range (see note below) will be given an opportunity to submit a final proposal revision (FPR) in accordance with FAR 15.307 and NFS 1815.307. This is accomplished by providing each remaining offeror a written request for submission of a final proposal revision by a “common due-date.” It is important that transmission of this request to each offeror be made as close to simultaneously as possible. If the request for FPR transmission is by facsimile, care must be taken to ensure that the correct fax number for that offeror is used and that there has been no transposition of offeror’s fax numbers. If requests for FPRs are to be faxed, a best practice is to call the offeror’s POC immediately prior to sending the fax to alert them of its transmission, and then call immediately after sending the fax to confirm receipt.

The request for FPR will:

- Establish the date and time revised proposals and signed “model” contracts are due.-
-A common cutoff (FPR due date) for proposal revisions must be established for all offerors.-All FPRs are to be delivered to the person designated in the request for FPR.
- In accordance with specific Installation practice, the request may identify any remaining deficiencies, significant weaknesses, or weaknesses.
- Instruct offerors to incorporate all changes to their offers resulting from discussions, and provide clear traceability from initial proposals.
- Require offerors to complete and execute the “model” contract, (which has been prepared to accompany each offeror’s FPR request) which includes any special

provisions or performance capabilities the offeror proposed above those specified in the RFP.

- Caution offerors against unsubstantiated changes to their proposals and instruct offerors to provide supporting rationale/documentation to substantiate any changes.
- Establish a page limit for FPRs in accordance with NFS 1815.307(b)(i)(D)
- Advise offerors that the FPR shall be in writing and that the Government intends to make award without obtaining further revisions.
- Advise offerors that proposal revisions received after the cutoff date will be considered a late proposal.
- If agreement on proposed cost was not reached during discussions, encourage offerors to submit their most favorable and realistic cost/price proposal.

Receipt, safeguarding, and assignment of FPRs should be the same as initial proposals (see Section 4.1.1 of this guide).

In accordance with NFS 1815.307, approval of the Assistant Administrator for Procurement is required to reopen discussions after receipt of FPRs for acquisitions of \$50 million or more. Approval of the Procurement Officer is required for all other acquisitions

Proposals are rescored or re-rated based on FPR evaluations. Scoring or rating changes between initial and FPRs shall be explained fully and clearly traceable. (See Section 4.6 below)

4.6 FINAL EVALUATION

Paragraphs 4.6.1 – 4.6.3 of this section apply only to acquisitions in which a competitive range has been made and discussions conducted. Paragraphs 4.6.4 – 4.6.6 apply to all competitive acquisitions regardless of whether or not discussions are conducted.

4.6.1 Revisions to Findings (Strengths, Weaknesses, etc.)

This section covers the disposition of information submitted by the offerors during the discussion process.

4.6.1.1 Individual Evaluations

The SEB Members and consultants (if needed) shall individually review and evaluate the data provided during the oral/written discussion process and incorporated into the FPRs. For all FPRs the individual members should note any findings that they think should change (for better or worse) as a result of FPRs and why. They should also record any new findings that result from the FPR process (i.e., new strengths and/or weaknesses or new past performance findings). Any impact that FPRs have on probable cost should also be recorded for discussion in consensus sessions.

4.6.1.2 Consensus Discussions

The SEB will then reach a consensus on each new or revised finding brought forward by the individual members and consultants. The SEB should also reach a consensus on changes, if

any, to probable cost adjustments based on the FPRs. Following consensus on findings, the SEB shall meet to rate and score proposals.

4.6.1.3 Documenting Traceability

Traceability is the watch word whenever findings are modified – it is essential that the reasons for changing a finding be documented. Such documentation should tell how the value of a proposal element was improved or reduced, how proposal risk was reduced or increased or how new information changed the consensus opinion of the SEB. As with all findings, page number references to the applicable proposal language should be included with the finding. As stated in Section 4.3.1.2, an SEB Report is an excellent way to document SEB findings and a new section often is drafted in the SEB Report to reflect the findings regarding the FPRs. If there is no SEB Report, then the SEB must ensure that final evaluation presentation charts to the SSA reflect traceability from the initial evaluation to the final evaluation, as well as, thoroughly documenting all new findings..

4.6.2 Final Sub-factor and Factor-Level Ratings

In any case where an offeror's findings are changed, it is likely that the offeror's Mission Suitability point total will change, and it is possible that the offeror's adjective ratings in Mission Suitability and Past Performance could change as well. Additionally, changes to probable cost adjustments, along with other Cost Proposal changes, could impact the probable cost for an offeror, cost realism adjustments, and/or the probable cost confidence rating. Any new ratings in these areas must still be consistent with the established adjective definitions, and the incremental changes.

4.6.3 Final Review

See Section 4.3.5 above for a full discussion on the final review process, which is essentially the same for final evaluation as it is for initial evaluation. The only difference is that at final evaluation, the review activity should also include a review of any changes made to ratings and scores to ensure that the process was conducted fairly and consistently.

4.6.4 Preparation of SSA Presentation Materials

The SEB, as directed by the Chairperson, prepares the SSA presentation materials. The SSA presentation should follow the "Recommended SEB Presentation Format" as set forth in NFS 1815.370(i) for NASA Source Evaluation Boards. The information contained in these presentation charts shall come from the official record maintained by the SEB, whether it is in an electronic system or in some other format. Some Installations maintain templates for SSA presentations, which can be helpful in organizing your presentation material.

4.6.5 Dry Run of SSA Presentation

It is strongly recommended that a dry run of the SSA Presentation be conducted to ensure that the presentation is ready to present to the SSA, and that Section M of the RFP has been followed in developing the findings contained in the presentation.

4.6.5.1 Timing and Format

The recommended SEB presentation format is outlined in NFS 1815.370(i). The dry run should be conducted within a reasonable period of time prior to the SSA presentation, so that

any changes the SEB makes as a result of the feedback received can be made prior to distributing the presentation package to the SSA. In the dry run, the charts should be presented as if the SSA were in the room. Attendees at the dry run should ask questions about the charts, and particularly about the evaluation findings, and if the information is not clear or does not seem to follow the Section M evaluation criteria.

4.6.5.2 Attendees

In addition to the SEB voting members and consultants, it is preferable to have a Senior Manager from the requiring organization and the Procurement Officer (or his/her representative provided they are ex-officio or otherwise cleared to have access to source selection sensitive data) present at an SSA Presentation Dry Run.

4.6.6 SSA PRESENTATION

4.6.6.1 Providing Advance Copy of Presentation to SSA

Each Installation will be bound by its internal procedures, but a good rule of thumb is to provide the presentation charts (and any back-up materials, such as strengths, weaknesses or other findings not contained in the presentation charts) to the SSA at least three working days prior to the SSA Presentation. It is important that the presentation package is marked as “source selection information” and is hand-delivered to the SSA with instructions on handling and safeguarding the material.

4.6.6.2 Attendees

Each Installation should also have procedures governing the attendance at SSA Presentations. NFS 1815.370(h)(3) says that “attendance at the presentation is restricted to people involved in the selection process or who have a valid need to know.” Typically, the attendee list will include the SEB voting members, the Procurement Officer, Legal Advisor, senior representatives from the requiring organization or project, and others named as Ex-officio Members in the SEB appointment memorandum.

4.6.6.3 The SEB Presentation

In accordance with NFS 1815.370(h)(1), the SEB Chairperson shall brief the SSA on the results of the SEB deliberations to permit an informed and objective selection of the best source(s) for the particular acquisition. However, the SEB Chairperson may choose to have other SEB members assist if such assistance will result in a more effective presentation.

4.6.6.4 Executive Session

Often the SSA will choose to hold an Executive Session following the presentation of the SSA Presentation Charts. The purpose of this session is to have frank and open discussions with a few senior leaders on the content of the presentation and the relative merits of the various proposals. Whether or not to have an Executive Session is strictly at the discretion of the SSA. However, it is important that the SEB Legal and Procurement Advisor, the Procurement Officer, and the Contracting Officer be included in any executive session. While an Executive Session can be an important tool in helping the SSA reach his/her selection decision, only the selection criteria stated in Section M of the RFP shall be used in this session or at any time in the selection process.

SECTION 5.0 SOURCE SELECTION

5.1 SOURCE SELECTION DECISION

Source selection decisions (SSD) made by the Source Selection Authority (SSA) must 1) be a comparative assessment of proposals based upon the evaluation criteria in the solicitation and 2) represent the independent judgment of the SSA. The SEB helps the SSA make the selection by identifying significant discriminators in each of the proposals resulting from its evaluation and explaining the significance of those discriminators. The SEB performs its duties without comparing proposals and it is the responsibility of the SSA to compare proposals using the findings made by the SEB. The SSA exercises independent judgment when determining how these discriminators factor into the selection decision. Since the findings of the SEB are part of the record, the SSA should return the evaluation to the SEB for its further consideration if the SSA believes the SEB's findings are flawed.

FAR 15.308 requires that all source selection decisions be documented. This is accomplished in the Source Selection Statement (SSS) described below. NFS 1815.308(2) provides that the SSA must sign the SSS prior to contract award. Consistent with the guideline on debriefings, the SSS shall be released to competing offerors prior to the debriefing. It is a good practice to attach a signed copy of the SSS to the notification regarding the source selection decision.

5.2 SOURCE SELECTION STATEMENTS

5.2.1 Purpose

The SSS has two different, but related purposes. The first purpose is to demonstrate the SSA made a rational source selection decision. Reasonable selections must be based solely on the evaluation of proposals against the criteria in the solicitation and include the basis for any business judgments and tradeoffs made. The SSS must be a deliberative document, reflecting the thought process behind the selection if it is to justify the selection. The deliberative quality of the document can be achieved by explaining (1) the SSA's comparative assessment of the competing proposals, which includes a discussion of the benefits or risks/detriments associated with the significant discriminators and (2) the trade-offs between the non-cost/price benefits and cost/price benefits among proposals.

Although the SSA has the overall responsibility for the SSS, the Legal Advisor should take the lead preparing a draft of the SSS with assistance from the SEB and Contracting Officer. Generally, the Contracting Officer prepares the draft of the procurement history, the SEB prepares the draft of the SEB findings, and the Legal Advisor prepares the draft of the SSD. It is a best practice to have drafts of the procurement history and the SEB findings written prior to the final briefing to the SSA.

A second purpose of a SSS is to provide a publicly releasable overview of the selection process that includes (1) a description of the acquisition process and (2) the Government's assessment of each proposal. A well-written SSS can explain what occurred during the SEB process and

help convince disappointed unsuccessful offerors that no grounds for a sustainable protest exist since the acquisition was conducted properly.

Consequently, the entire SSS must be drafted to be releasable to the public, without redactions. Findings contained in the SSS must be described in such a way that no proprietary or source selection sensitive information is disclosed. Drafters of an SSS may be required to explain a finding using a high-level description instead of using a detailed description of the underlying feature or characteristic in a proposal.

5.2.2 Format and Content.

No established template exists for a SSS since each decision is based on different requirements, different evaluation criteria and different proposals. However, each SSS shall consist of the following three parts:

- (1) Procurement History,
- (2) Findings by the SEB, and
- (3) Source Selection Decision (SSD).

The SSD is the most important part of the SSS and is the deliberative part of the SSS. The Procurement history and the Findings by the SEB, on the other hand, are factual in nature.

The three parts of the SSS may be combined as an integrated document, or the History and the Findings may be supporting attachments to the SSS.

5.2.2.1 The Procurement History Narrative.

This concise narrative describes what is being acquired and provides a brief history of the progress of the acquisition including the important stages of the acquisition and their dates; an abbreviated statement of the evaluation criteria and weights; the disposition of offerors not addressed in the SSD narrative, to include unacceptable proposals, the competitive range determination, and late proposals; and any unusual aspects of the acquisition.

5.2.2.2 Narrative on the Findings by the SEB.

This part of the SSS describes all of the SEB significant findings and should be presented in an objective manner. Using the SEB charts and/or findings as the basis for this narrative also ensures traceability among the proposals' contents, the SEB findings, the SEB presentation to the SSA, and the SSS. Having end-to-end traceability should enhance NASA's ability to defend challenges made to the selection.

Generally, this narrative should be concise, reflecting a distillation of the findings on the charts. The SSS only needs to contain an abbreviated description of a factor with associated findings for each proposal when that factor did not have a decisive role in the selection. On the other hand, the narrative needs to contain enough detail to support those findings the SSA relies upon as discriminators in the selection. For example, the narrative should include a description of the adjustments made for probable cost in those situations where significant adjustments are made to the proposed cost and the difference between proposed and probable cost is a factor in the selection.

The SSS should reflect the extent to which the SSA agrees with the SEB and adopts its findings which can be reflected by a single sentence in the SSD. All disagreements between the SSA and the SEB must be documented in the SSS with an explanation of the difference and the reasons why the SEB findings were not followed. The basis for the disagreement should describe any differences regarding the perceived consequences to the Agency and the reasons why the SSA believes his or her perception should be used for the purposes of selection. This explanation of a disagreement usually will involve differences regarding business or technical judgment. In addition, any disagreement should be explained in relation to the evaluation scheme in the solicitation and, when appropriate, citations to the proposal should be included in the SSS to support a change to a finding or conclusion.

No disagreement is deemed to have occurred if the SSA identifies additional consequences to the Agency not identified by the SEB; however, the SSA must ensure that the additional benefits or risks are included in the SSD along with the technical or business judgment supporting the additional impacts.

There is no prescribed way the SSS should reflect disagreements between the SSA and the SEB. Acceptable ways include: (1) immediately following the statement of the SEB finding disagreed with, (2) as a footnote to that SEB finding, (3) collected in a separate section at the end of the findings narrative, or (4) as a discussion in the SSD.

5.2.2.3 The Source Selection Decision (SSD).

5.2.2.3.1 General

The SSD explains the basis for the selection decision and provides insight into the selection process. The SSD shall also support decisions made to award on initial proposals. All selections must be based solely on the evaluation criteria in the solicitation and should be based upon those findings by the SEB that the SSA deems relevant to the selection decision.

The SSD shall contain comparative assessment of proposals against all source selection criteria in the solicitation. While the SSA may use reports and analyses prepared by others, the SSD shall represent the SSA's independent judgment. Often the SSD begins with a recital of the evaluation criteria and identifies the input the SSA received to make the selection decision from sources such as the SEB presentation, an SEB report if one exists, and advisors to the SSA. The SSS shall refer to advisors using terms such as "key senior personnel at NASA Headquarters and Installation Representatives" rather than identifying the advisors by name or specific job title.

5.2.2.3.2 Comparative Assessment of the Proposals

Each SSD must contain a comparative assessment of the proposals based upon the evaluation factors in the solicitation, which typically are Mission Suitability, Past Performance and Cost. The SSD analyzes each evaluation factor separately usually beginning with a comparison of Mission Suitability. The factors for Mission Suitability and Past Performance comprise the technical portion of each proposal. The comparative assessment of the technical factors involves a description of the significant findings for each proposal along with a description of the benefits /risks associated with each finding. After describing the significant findings for

each proposal, the SSA compares the proposals. The comparison between the proposals should focus upon the benefits or risks associated with each proposal, as opposed to the different adjectival ratings, since benefit/risk statements best explain the relevance of the findings to the Agency.

The SSD may refer to significant differences in adjectival ratings given by the SEB to highlight significant adjectival differences in the competing proposals. Referring to the significant point or adjectival differences found by the SEB, however, must be done in addition to and not in lieu of describing the benefits and risks/detriments the SSA finds in the proposals.

In certain situations, large point or adjectival differences, which are rationally based upon SEB findings, may support the conclusion to summarily dispose of the lowest technically rated proposals that are not cost-competitive. When selection is made based on initial proposals, the SSD also may concisely address the lowest technically rated/cost competitive proposals if there is a significant adjectival difference between proposals and non-technical factors are significantly less important. Additionally, the SSD can contain concise descriptions of any evaluation factor that is not a discriminator in the selection. Having the same or very similar ratings for Past Performance may be an example of when an evaluation factor is not a discriminator in the selection process.

Cost/price is the third evaluation factor described in the SSD. The cost to be considered may be either the proposed or the probable cost, depending on what the RFP states. Normally, the SSA places the greater emphasis on the adjustments for probable cost since these figures should be more representative of the actual cost the Government will incur. When the SSA relies upon adjustments for probable cost, the SSD needs to describe the major adjustments made to proposed cost and to explain the level of confidence the SSA has in the accuracy of the adjustments to include a brief statement regarding the reasons for the confidence level. The discussion of probable cost does not apply to acquisitions involving a firm, fixed price contract [except as appropriate in accordance with 15.404-1(d)(3)].

5.2.2.3.3 Trade-Off Analysis

A tradeoff process is appropriate when it is in the best interest of the Government to consider award to other than the lowest priced offeror or other than the highest technically rated offeror. This process allows the Government to accept other than the lowest priced proposal by permitting the SSA to trade-off the cost/price factors against non-cost factors involving Mission Suitability and Past Performance.

No trade-off analysis is required in situations where the highest rated technical proposal is also the proposal with the lowest cost. In all other cases, the SSA must engage in a trade-off analysis and this analysis must be reflected in the SSD. For example, a trade-off analysis is required before the SSA selects the higher technical, higher cost proposal even if the RFP states that non-price factors are much more significant than cost.

The best method to conduct a trade-off analysis is by examining the perceived benefits or risks in the technical portions of the proposals by focusing on significant discriminators and comparing that against the cost/prices of the proposals. After this comparison, the SSA should

explain why the higher priced proposal merits the additional cost or why the lower priced proposal represents the best value to the Government. In all cases, the SSD needs to focus on the benefits or risks/detriments found in proposals rather than relying upon the points assigned at the factor or sub-factor level. This comparison is not expected to be a mathematical quantification of the trade offs that led to the decision. The SSA also should express a conclusion regarding which proposal provides a greater degree of benefit to the Agency. The conclusion should describe the degree of the difference between proposals and explain the technical and business judgment that justifies the difference. This process should isolate the significant discriminators between proposals

5.3 ADMINISTRATOR'S NOTIFICATION AND NASA HEADQUARTERS' PUBLIC ANNOUNCEMENTS

NFS 1805.303-71 establishes that a NASA Headquarters public announcement and Administrator notification is required for award of a contract action that has a total anticipated value, including unexercised options, of \$5 million or greater. If the Contracting Officer considers that a contract action or other action at any dollar value is of significant interest to Headquarters or has agency public information implications, the Contracting Officer should contact the Headquarters Office of Procurement, Program Operations Division to discuss the possible Administrator notification and/or public announcement (see NFS 1815.303-71 (a)(3) for examples). Contract actions requiring notification to the Administrator and/or NASA Headquarters Public Announcement shall not be distributed nor shall any source outside NASA be notified of their status until the procedures of NFS 1805.303-72 are accomplished. The CO shall send the documentation requirements listed in NFS 1805.303-72(a) (2) to the cognizant Procurement Analyst at the Headquarters Office of Procurement, Program Operations Division at least three (3) working days prior to the planned public announcement. The Administrator's notification must be sent using the NASA Public Key Infrastructure (PKI) method, and immediately prior to the electronic submission the CO must make "live" contact with the HQ Procurement Analyst by telephone (leaving a voicemail message is not sufficient).

In accordance with FAR 3.104-5(c), the Contracting Officer shall mark all pages that include source selection information with the legend "Source Selection Information – See FAR 2.101 and 3.104." The NASA Headquarters Office of Legislative affairs will coordinate the date of public announcement with the Headquarters Office of Public Affairs. The Headquarters Office of Public Affairs will then coordinate with the Installation's Public Affairs Office. The Headquarters Office of Legislative Affairs will coordinate the timing of notifying offerors with the Contracting Officer so that the offerors are notified prior to Congress and Congress is notified prior to the public announcement.

5.4 CONTRACT AWARD

After obtaining all applicable approvals, the Contracting Officer shall award a contract to the successful offeror by furnishing the executed contract or other notice of the award to that offeror. Installations may proceed with award and local release of information only after the Office of Public Affairs makes the public announcement (see NFS 1805.303-72 (a)(3)).

Important reminders:

A purchase request with committed funds should be processed early enough to ensure funds are available at the time contract award is planned.

Where the Notification or Public Announcement is for a follow-on effort, the Installation Procurement Office should provide a comment in the cover message to the HQ Procurement Analyst (preferably in the email cover memo that forwards the PKI Notification to HQ) identifying the date the current contract ends.

To help streamline the announcement process, Contracting Officers may be requested by the Installation Public Affairs point(s) of contact to assist in the preparation of the draft news release concurrent with the submission of the notification (i.e., prior to the Contracting Officer receiving confirmation that the Administrator has been notified). In such cases ALL involved Installation and Headquarters personnel must be diligent in their efforts to ensure that no information is published prior to attaining official confirmation from the HQ Office of Procurement that the Administrator has been notified.

SECTION 6.0 SEB RELATED POST-AWARD ACTIVITIES

GENERAL INFORMATION:

This section addresses the post-award activities that involve elements of the SEB including the post-award debriefing, handling of protests, documenting lessons learned, and conducting Post-Award Conference. Upon receipt of any protest immediately contact Installation Chief Counsel's Office.

6.1 POST-AWARD DEBRIEFING OF OFFERORS

Debriefings shall be conducted in accordance with FAR Part 15.505 or 15.506 as appropriate depending upon when the debriefing occurs (i.e., before award or after award). Additional guidance is available in NASA Procurement Library and Procurement Information Circular 04-11 "NASA Procurement Debriefing Guide", to promote NASA wide implementation of best practices for debriefing offerors and provide consistent debriefing approaches within NASA. Post-award debriefings shall be provided to the successful and unsuccessful offerors upon request.

FAR Part 15.506 pertains to post-award debriefings and allows an unsuccessful offeror to request a debriefing within three days after receiving the notification of contract award. The Government Accountability Office (GAO) has recognized that debriefing purposes are two fold: (1) to inform the offeror of its significant weaknesses and its deficiencies, and (2) to provide essential information in a post-award debriefing on the rationale for the source selection decision.

The goal of a debriefing is to have open, appropriate and meaningful information exchanges that reduce misunderstandings and protests by 1) providing a clear understanding of NASA's evaluation process and the basis for the selection decision and 2) demonstrating that NASA followed the rules and conducted the acquisition in an objective and fair manner. A debriefing also provides an opportunity to positively affect the quality of offerors' future proposals by providing meaningful feedback for improvement in future acquisitions.

Often, unsuccessful offerors are able to accept negative findings in a debriefing if they perceive that NASA has acted with fairness, consistency, objectivity and in accordance with the evaluation criteria described in the solicitation. However, the debriefing is unlikely to alter opinions and perceptions that arise earlier in the process. Thus, the Agency's credibility and rapport with a debriefed offeror begins upon the first contact with the offeror.

It is NASA policy to provide the following information in addition to that required by section FAR 15.506(d) of the FAR:

- Number of offerors,
- Identity of offerors,
- Identity of offerors in the competitive range,
- Awardee's adjective ratings for each Mission Suitability factor,

- Awardee's overall Mission Suitability adjective rating,
- Awardee's Past Performance adjective rating,
- Probable cost comparison between the awardee and debriefed offeror (expressed in approximate percentage difference),
- Provide a summary of the impact of discussions and proposal revisions on the original evaluation findings for the proposal, so that the offeror can gauge the success of its efforts regarding any discussions that were held and proposal revisions that were submitted.

There are certain topics, however, that CANNOT be discussed during debriefings and unsuccessful offerors can test these limitations since they often display persistent curiosity about the content of their competitor's proposals. Statutory and regulatory rules strictly limit the information that NASA may disclose regarding other offeror's proposals. The list of information that cannot be disclosed includes:

- Point-by-point comparisons of the debriefed offeror's proposal with those of other offerors.
- Proposal evaluation reports of other offerors' proposals.
- Information prohibited from disclosure by FAR 24.202 or exempt from release under the Freedom of Information Act (5 U.S.C. 552) including:
 - I. Trade secrets;
 - II. Privileged or confidential manufacturing processes and techniques;
 - III. Commercial and financial information that is privileged or confidential, including cost breakdowns, profit, indirect cost rates, and similar information; and
 - IV. The names of individuals providing reference information about an offeror's past performance.
- For major systems acquisitions conducted in accordance with NFS Part 1834, the information set forth in NFS1815.506-70(a). When an acquisition is conducted in accordance with the major system acquisition procedures and multiple offerors are selected, the debriefing will be limited in such a manner that it does not prematurely disclose innovative concepts, designs, and approaches of the successful offerors that would result in a transfusion of ideas (see NFS 1815.506-70). When Phase B awards are made for alternative system design concepts, the source selection statements shall not be released to competing offerors or the general public until the release of the source selection statement for Phase C/D without the approval of the Assistant Administrator for Procurement.

A successful debriefing requires preparation. Experience has shown that going into a debriefing unprepared is the surest way to lose the confidence of the offeror and lose the opportunity to effectively communicate the agency position. The extent of preparation necessary varies considerably with the complexity of the procurement. Sometimes, merely preparing debriefing talking points is sufficient. Other times, dry run rehearsals are necessary. Within NASA, dry runs are routinely performed prior to complex or high-dollar value procurement debriefings. All NASA personnel attending the debriefing must be briefed on their roles and expected demeanor during the debriefing. Argumentative or defensive conduct should

be forbidden, and NASA personnel should be instructed to make their presentations in a positive manner.

Contracting Officers should refer to the NASA Procurement Debriefing Guide is contained in PIC 04-11 before conducting any post-award debriefings. This 10-page guide contains specifics not discussed above such as the type of debriefings, the timing of debriefings, individuals who should attend the debriefing and the suggested debriefing format for the debriefings.

6.2 HANDLING OF PROTESTS

6.2.1 Protests to the Agency

FAR 33.103 provides guidance regarding how to handle protests filed directly with the agency and states that the agencies shall make their best efforts to resolve agency protests within 35 days after the protest is filed. To the extent permitted by law and regulation, the parties may exchange relevant information. In accordance with NFS 1833.103, an independent review under the solicitation provision at NFS 1852.233-70 is available as an alternative to filing a protest to the Contracting Officer, but not as an appeal of a protest decision. The Assistant Administrator for Procurement or designee shall conduct all independent reviews for Procurement. Such reviews are different from the Ombudsman Program described at NFS 1815.7001. NASA shall summarily dismiss and take no further action upon any protest to the Agency if the substance of the protest is pending in judicial proceedings or the protester has filed a protest on the same acquisition with the United States Government Accountability Office (GAO) prior to receipt of an Agency protest decision. When a potential bidder or offeror submits an Agency protest to NASA, to the Contracting Officer or alternatively requests an independent review, the decision of the Contracting Officer or the Independent Review Official shall be final and is not subject to any appeal or reconsideration within NASA. Protests received at NASA offices or locations other than that of the Cognizant Contracting Officer shall be immediately referred to the Contracting Officer for disposition [see NFS 1833.106(a)]. The Contracting Officer shall advise the Headquarters Offices of Procurement and the Office of General Counsel of the receipt of the protest and the planned and actual disposition. This paragraph does not apply when the protester has requested an independent review under the provision at NFS 1852.233-70.

The protestor must file any subsequent protest to the GAO within 10 calendar days of actual or constructive knowledge of initial adverse agency action. [4 CFR Part 21.2(a)(3)].

In accordance with the FAR 33.103(f)(1), upon receipt of a protest before award, a contract may not be awarded, pending agency resolution of the protest, unless contract award is justified, in writing, for urgent and compelling reasons or is determined, in writing, to be in the best interest of the Government. NFS 1833.103(f) (1) identifies the Assistant Administrator for Procurement as the approval authority for contract award.

Similarly, FAR 33.103(f)(3) states that upon receipt of a protest within 10 calendar days after contract award or within 5 calendar days after a debriefing date offered to the protester under a timely debriefing request in accordance with FAR 15.505 or FAR 15.506, whichever is later, the Contracting Officer shall immediately suspend performance, pending resolution of the protest within the agency, including any review by an independent higher level official, unless continued performance is justified, in writing, for urgent and compelling reasons or is determined, in writing, to be in the best interest of the Government. NFS 1833.103(f) (3) identifies the Assistant Administrator for Procurement as the approval authority for authorizing continued contract performance.

6.2.2 Protest to the GAO

In 1994, Congress reformed the bid protest process in the Federal Acquisition Streamlining Act of 1994 (FASA). Subsequently, NASA updated its policy for responding to procurement protests. The text below highlights the parts of that policy that apply to procurement protests filed with the GAO.

NASA should establish a "protest team" early in the process to respond to each new protest at this forum. This team will consist of representatives from the Office of the General Counsel (OGC), the Office of Procurement, the Contracting Officer, the Installation's Office of Chief Counsel (OCC), and any others that may be appropriate to the issues raised, with the OGC serving as the single point of contact with GAO on all protest matters. This team will consider the merits of the protest as soon as sufficient information is available and will advise the Assistant Administrator for Procurement, who will decide whether to defend the protest or to direct the Installation Procurement Officer to initiate appropriate corrective action. If the decision is to defend the challenged procurement actions, The OGC will take the lead and most of the procedures described below will apply. NASA's objective will be to keep the GAO protest process as uncomplicated, informal, and expeditious as possible. If, on the other hand, the Assistant Administrator for Procurement decides the acquisition was flawed, the Office of Procurement will take the lead, with the OGC, to negotiate a settlement of the protest and file whatever documents are necessary to have the matter dismissed or withdrawn. During this negotiation process, these two Offices will consult with the Installation OCC and Contracting Officer. After the protest is resolved, the Office of Procurement will develop necessary remedial actions to fulfill the terms of the settlement agreement and to correct any problems that led to the real or perceived flaw in the acquisition in question.

6.2.2.1 Notification of Protest

GAO will notify the OGC of the protest the day that the protest is filed or the following day ("Days" are identified in the GAO bid protest rules as calendar days unless otherwise specified). Within one business day after receiving this notification, the OGC will notify the Office of Procurement and the Installation OCC of the protest and provide any accompanying document requests. The Office of Procurement will notify the Contracting Officer of the protest. The Contracting Officer will immediately give notice of the protest to all interested parties. Any oral notice by the Contracting Officer must subsequently be confirmed in writing. The Contracting Officer will provide a copy of the written notification or confirmation to the Office of Procurement, the OGC and to the Installation OCC.

6.2.2.2 NASA Protest Team

The OGC, in consultation with the Office of Procurement and Installation personnel, will assemble the necessary "protest team" (Contracting Officer, Installation OCC, technical experts, procurement specialists, and other personnel, as required). In all cases, the Office of Procurement will be invited to participate as a member of the team. Within the first 3 days after receiving notice of the protest, the team will discuss the facts surrounding the acquisition to determine the merits of the protest, to assess the acquisition from a business management perspective, and to assess whether use of the express option may be appropriate for the protest at hand. The express option identified in 4 CFR Section 21.10 provides for the resolution of protests within 65 days where appropriate. Because the express option must be requested no later than 5 days after the protest is filed, NASA will have a very short time period in which to decide whether to request the express option. Should the team recommend use of the express option, the OGC will notify GAO. The OGC will take the lead, in consultation with the OCC, to defend the protest in accordance with the express option procedures. If NASA does not choose the express option, the team will provide its analysis to the Assistant Administrator for Procurement. If, after considering the team's analysis, the Assistant Administrator for Procurement decides that NASA should defend the protest, the case will be referred to the OGC for action and the detailed procedures that follow will apply. On the other hand, if the Assistant Administrator for Procurement, after consulting with the appropriate Program Office, decides the protest has merit, the acquisition will be returned to the Installation with direction to take corrective action. While any and all basis for settlement will be examined, the Office of Procurement will pay particular attention to the acquisition process actually followed to determine if any anomalies occurred that would warrant immediate corrective action. If, for any reason, the Assistant Administrator for Procurement determines, in consultation with the appropriate Program Office, that settlement is the best approach, the OGC will negotiate the settlement, consistent with the team's assessment and will prepare and file any required documents with GAO to have the protest dismissed or withdrawn. The goal is to resolve any settlement negotiations before the agency report must be submitted. Once the protester withdraws or GAO dismisses the protest in reliance on NASA's agreement to resolve the issues raised, the Office of Procurement, will have lead responsibility for defining the remedial action(s) and the Contracting Officer shall be responsible for implementing those action(s), including compliance with any express conditions set forth in the settlement document, and promulgating any lessons learned for guidance to the Installations.

6.2.2.3 Conferences

Within 7 days after the notice of protest, GAO usually holds the first telephone conference to discuss protest issues and procedures. During these conferences, GAO and the parties are likely to discuss how to proceed with respect to: (1) suspension of award or performance of the contract until resolution of the protest; (2) creation of a consensus protest file; (3) requests for protective orders; (4) requests for the production of documents and other forms of discovery; (5) filing objections and motions to dismiss; (6) responses to parties' submissions; and (7) hearings and post-hearing briefs, if needed. The OGC, in consultation with the OCC, will decide how to best represent NASA in the initial and any subsequent conferences with GAO and the other protest parties, as well as in other matters described below. The Office of Procurement, the Contracting Officer and the OCC may participate in these conferences, at any

time. If the OGC requests their assistance, the Office of Procurement, the Contracting Officer and/or the OCC will support the conferences.

6.2.2.4 Suspension of Award or Performance of Contract

When a protest is filed with GAO, NASA may be required to withhold award and to suspend contract performance. The protest team should discuss this important issue as early as possible and determine whether circumstances exist in the protest at hand that would require suspension of award or performance of a contract. The OGC, in consultation with the OCC, will advise the protest team on whether a protest was filed within the time period specified in the statute for obtaining a suspension. Where a protest is not timely for this purpose, suspension of award or performance of a contract is not required. Where the protest team determines that a protest has been filed within the statutory time period for obtaining a suspension, it will so advise the Assistant Administrator for Procurement. Unless the Assistant Administrator for Procurement determines in writing, and so informs GAO, that urgent and compelling circumstances which significantly affect the interest of the United States will not permit waiting for a decision in a protest, NASA will not award or continue performance of a contract after receiving notice of a protest within the statutory time period for obtaining a suspension. If it becomes necessary for award to occur or for performance to continue while a protest is pending, the Office of Procurement will take the initiative in drafting the necessary determination for signature by the Assistant Administrator for Procurement and will request the concurrence of the protest team (including a Legal Advisor review). Once final concurrences are obtained, the Office of Procurement will forward the determination to the Assistant Administrator for Procurement for signature. If the team disagrees on the necessity for award notwithstanding the protest, the Assistant Administrator for Procurement will make the final decision. Once signed, the OGC will provide a copy to GAO and inform the protest parties. The Office of Procurement may then authorize the Contracting Officer to proceed.

6.2.2.5 Dispositive Motions

At any time during a GAO protest, and after discussions with the protest team members, the OGC may determine to file a dispositive motion. A dispositive motion is a mechanism to bring a protest to a conclusion before a final decision is rendered by the GAO. Dispositive motions serve two valuable purposes. First, they help focus on the true issues in dispute by dismissing untimely, irrelevant, or unfounded allegations. Second, they save time and resources by preventing the unnecessary collection, review, and preparation of documents.

6.2.2.6 Protective Orders

GAO issues protective orders to facilitate full exchange of information among the parties. These orders allow representatives of protesters and interveners access to procurement-sensitive information which NASA might otherwise withhold as source selection material, such as SEB reports, or business confidential data, such as competitors' technical and cost proposals. To get access to these kinds of information pursuant to a protective order, a person must not be involved in the protester's or intervenor's competitive decision making process. Anyone wishing to be admitted to a protective order must file an application with GAO. Outside counsel usually qualify. Other persons, such as experts and consultants, must explain in some detail how they are not involved in the competitive decision making process, be subject to objections from other parties, and ultimately be approved or denied admission by GAO. The

OGC, with appropriate input from the protest team, will represent NASA in all matters involving protective orders.

FAR 33.104 outlines the procedures on how to process a GAO protest. One of the first things you must do is assemble what the FAR calls the “protest file”. This file shall contain the following items:

- The protest
- The offer submitted by the protester
- The offer being considered for award or being protested
- All relevant evaluation documents
- The solicitation, including specifications or portions relevant to the protest
- The abstract of offers or relevant portions; and
- Any other documents the agency determines are relevant to the protest, including documents specifically requested by the protester.

In addition to these documents, the Contracting Officer must prepare a statement of facts, and the servicing attorney must prepare a memorandum of law. Lastly, the agency must prepare a list of parties being provided these documents. When the Contracting Officer statement of facts, the memorandum of law and the list of parties being provided the documents is added to the protest file, it becomes the Agency Report. The Agency Report is what is submitted to the GAO.

6.2.2.7 Protest File (See FAR 33.104)

By statute, any actual or prospective offeror may request access to a protest file once notified of the protest. The right to request a protest file and index may provide valuable information which may, in turn, lead to the identification of additional documents to be included in the protest file. GAO bid protest rules require the agency to submit an agency report within 30 days after notice of the protest. In order to expedite the process, the Contracting Officer, working with the OCC, will prepare the index and send copies to Headquarters Office of Procurement and OGC within 10 days after the notification of the protest, thereby providing advance information on the contents of the protest file. Within 15 days after receipt of a protest, the Contracting Officer and the OCC will assemble and forward the protest file to OGC for review. However, if the GAO express option is selected the above time periods will be shortened to meet GAO submission deadlines. The Contracting Officer will, after consulting with the OCC and the OGC forward the protest file and index to ensure delivery to the OGC no later than 15 days after NASA received notice of the protest. Adhering to these timeframes will expedite resolution of the protest and minimize program delays. Therefore if an extension to the previous timeframes becomes necessary you must obtain it from the OGC. The Contracting Officer will retain a minimum of two copies of the protest file.

6.2.2.8 Document Requests

Working with the NASA protest team, the OGC will identify any useful additional information in the protester's possession that may not be available to NASA. As necessary, the OGC will file motions with GAO to compel production of the protester's documents and, if relevant, make them part of the protest file.

6.2.2.9 Contracting Officer's Statement of Facts

Concurrent with the preparation of the protest file, the Contracting Officer will prepare a statement of facts. After consultation with the OCC, but within 20 days after receipt of notice of the protest, the Contracting Officer will forward the statement of facts to all members of the protest team. The OGC and the OCC attorney will review the statement for accuracy, coherence, and consistency with NASA policy, as well as to determine whether the statement presents the facts in the most effective manner to support NASA's legal theory for defending the protest. The OGC will then discuss the statement of facts with the protest team. Based on this discussion, the OGC may revise the legal theory for defending the protest or suggest any revisions to the statement of facts deemed appropriate to improve its accuracy, clarity, and effectiveness.

6.2.2.10 Memorandum Of Law

Unless the OCC and the OGC agree otherwise, concurrent with the preparation of the protest file, the OCC will prepare a draft memorandum of law and forward both the hard copy and either a copy on a diskette or a copy forwarded by electronic mail to the OGC within 20 days after the protest is filed. The OGC will review and revise the draft memorandum of law, as necessary, to ensure legal sufficiency, clarity, and effectiveness.

6.2.2.11 Agency Report

Within 30 days after the protest is filed, the OGC will submit to GAO the Agency report, consisting of the protest file, the Contracting Officer's statement of facts, and the memorandum of law. The OGC also will provide a copy of the report to the protester(s), all interveners and to the OCC. An information copy of the Agency report will be provided to the Office of Procurement when the report is submitted to GAO.

6.2.2.12 Comments on Agency Report

GAO's procedures require the protester to comment on the Agency report or face dismissal of the protest. As a result, protesters take this comment process seriously. Moreover, the opportunity to comment is frequently very valuable because it gives the protester the benefit of the Agency report to clarify the protest issues and address them as persuasively as possible. In many cases, these comments on the Agency report are the first clear, effective statement of the protester's position. The OGC will analyze the comments and, after consultation with the other team members, submit any final Agency reply to the comments, to the extent permitted by GAO.

6.2.2.13 Implementation of GAO Decision

GAO must issue decisions within 100 days from the time a protest is filed. Upon receipt of the decision, the OGC, the Office of Procurement, the Contracting Officer and the OCC will discuss, where applicable, whether to request reconsideration. Should it appear that reconsideration is warranted, the OGC and the Office of Procurement will discuss the matter with the protest team within 1 day after the protest decision has been issued. If the team recommends that NASA pursue reconsideration the OCC will prepare a draft request for reconsideration and forward both the hard copy and either a copy on a diskette or a copy forwarded by electronic mail, and any additional supporting documents, to the OGC within 6 days after the decision had been issued. Not later than 10 days after the decision is issued, the

OGC will file the request for reconsideration with the GAO, and will provide copies to the other parties, the Office of Procurement, the Contracting Officer and the OCC. Where reconsideration is not appropriate, the OGC, the Office of Procurement, the Contracting Officer and the OCC will discuss any lessons learned, as well as any significant trends which the protest may exemplify. Based on the decision and this discussion, the Assistant Administrator for Procurement will issue any appropriate specific guidance to the installation concerned regarding compliance with the GAO decision. The Assistant Administrator for Procurement also will issue any appropriate general guidance to all Field Installations in the form of revisions to the NASA FAR Supplement, a memorandum of lessons learned.

6.2.3 Protest to the Court of Federal Claims

Disappointed offerors may elect to file a protest at the Court of Federal Claims (COFC). 28 U.S.C. 1491(b)(1), known as the Tucker Act, gives the COFC jurisdiction to render judgment on an action by an interested party on solicitations, proposed selections, or any alleged violation of statute or regulation in connection with a procurement or a proposed procurement. The COFC has jurisdiction to entertain such an action without regard to whether suit is instituted before or after the contract is awarded. The COFC may grant any relief that the court considers proper, including declaratory and injunctive relief except that any monetary relief shall be limited to bid preparation and proposal costs. GAO does not have the authority to provide declaratory or injunctive relief.

Section 6.2.2 was written to conform to GAO's rules regarding protest; however, the COFC has its own rules regarding protest. Moreover, some of the practices at the COFC are evolving since this court first received jurisdiction regarding bid protests in 1996. All protests filed with the COFC will be handled by the Department of Justice and the Office of General Counsel with support from the Installation Legal Counsel and Contracting Officer.

6.3 DOCUMENTING LESSONS LEARNED

SEB participants are encouraged to document lessons learned during the SEB process, including any suggestions to improve or streamline the process. These documented lessons learned should be provided to the Procurement Officer or designee at the NASA Installation conducting the evaluation.

6.4 CONDUCTING POST-AWARD CONFERENCES

Post-award conferences shall be conducted as required by NFS 1842.503. Additional guidance on the conduct of a post-award conference is available at FAR 42.5 "Post-Award Orientation".

The objectives of a post-award conference generally are as follows:

- Finalize the Government and contractor teams preparations for execution of transition/phase-in;
- Provide necessary working level information to facilitate effective phase-in and efficient performance; and
- Discuss Contract Administration

6.5 SURVEILLANCE PLAN

Contract surveillance includes all activities used by the government to ensure quality performance under the contract. The surveillance plan is the mechanism by which all these activities are coordinated to ensure effective administration of the contract while conserving resources to the greatest extent possible. In accordance with NFS 1846.401 the project office prepares the surveillance plan in conjunction with the statement of work is preliminary. It reflects the Government's surveillance approach relative to the perceived programmatic risk, and is written at a general rather than specific level because the risks will not be completely identified at that time. Therefore, essential for the SEB to communicate to the CO any specific risks that were identified during the evaluation process of the successful offerors proposal for incorporation into the updated surveillance plan. After contract award, COs shall ensure that the QASP is revised to reflect the risks associated with the successful offeror's proposal. This final QASP shall not be incorporated into the contract, but should be periodically reviewed and updated to ensure its currency. When determined by the Installation Quality Assurance Representative, Technical Representative, or CO that higher level quality standards are required for a complex acquisition (see FAR 46.202-4) the solicitation should request that offerors submit a contractor quality surveillance plan that describes the processes and procedures by which the offeror proposes to ensure quality performance under the resultant contract. That plan should be evaluated, negotiated if appropriate, and incorporated into any resulting contract. This plan is in addition to, and does not replace, the Government Quality Assurance Surveillance Plan (QASP).

6.6 DISPOSITION OF SEB DOCUMENTS AND RECORD RETENTION

Following completion of all SEB activities and expiration of the protest period one copy of all evaluation documentation, presentations, reports, and proposals received should be maintained with the official contract file. At this time all other copies of proposals and other source selection information, except those retained for the SEB library (see below), should be destroyed in accordance with Installation procedures. It is good practice to maintain an SEB library for use by future SEBs. If an individual Installation determines that an SEB library is appropriate safeguards should be implemented to ensure security of the sensitive documents.

ACRONYM LIST

<u>Acronym</u>	<u>Description</u>
A&E	Architect-Engineer
AO	Announcement of Opportunity
BAA	Broad Agency Announcement
CCI	Consolidated Contracting Initiative
CCR	Central Contractor Registration
CFR	Code of Federal Regulations
DCAA	Defense Contract Audit Agency
DCMA	Defense Contract Management Agency
DoL	Department of Labor
DRFP	Draft RFP
EEO	Equal Employment Opportunity
EPS	Electronic Posting System
FAR	Federal Acquisition Regulation
FPR	Final Proposal Revisions
GAO	Government Accountability Office
HBCU	Historically Black College/University
HUBZone	Historically Underutilized Business Zone
IGCE	Independent Government Cost Estimate
JSRA	Joint Sponsored Research Agreement
MBP	Master Buy Plan
MBPD	Master Buy Plan Database
NAIS	NASA Acquisition Internet Service
NF	NASA Form
NFS	NASA FAR Supplement
NPD	NASA Policy Directive
NPR	NASA Procedural Requirements
NRA	NASA Research Announcement
OCC	Office of Chief Counsel at NASA Installation
OFCCP	Office of Federal Contract Compliance Programs
OGC	Office of the General Counsel at NASA Headquarters
OGE	Office of Government Ethics
OMEI	Other Minority Educational Institutions
ORCA	On-Line Representations and Certifications
PBC	Performance Based Contracting
PDT	Procurement Development Team
POP	Program Operating Plan
PP	Past Performance
PR	Purchase Request
PSM	Procurement Strategy Meeting
RBAM	Risk Based Acquisition Management
RFP	Request for Proposal
SBIR	Small Business Innovation Research
SDB	Small Disadvantaged Business

SEB	Source Evaluation Board
SEC	Source Evaluation Committee
SES	Senior Executive Service
SF	Standard Form
SLC	Standard Labor Category
SOW	Statement of Work
SRB	Solicitation Review Board
SSA	Source Selection Authority
SSS	Source Selection Statement
STTR	Small Business Technology Transfer
WOSB	Woman-Owned Small Business

List of Attachments – Examples:

The attached examples have been prepared as guidance to individuals involved in the SEB process. The attached examples are samples of what may be used. As such, these examples do not bind the Centers, and therefore Centers may implement any parts or modify these examples as deemed appropriate.

- [A – Detailed SEB Schedule](#)
- [B – SEB Security Plan and Briefing](#)
- [C – SEB Appointment Letter](#)
- [D – SEB Process Flow](#)

[SEB Regulation/Policy Topical Location Index](#)

Attachment A – Detailed SEB Schedule

1 Benchmarking, Strategic Planning & Initial Requirements Definition	150 days
2 Small Business Participation	60 days
3 Prepare for Procurement Strategy Meeting (PSM)	14 days
4 PRT Review of PSM Charts	5 days
5 Dry Run of PSM to Procurement Officer	2 days
6 Center PSM	3 days
7 Schedule and Prepare for Headquarters PSM	20 days
8 Headquarters PSM	0 days
9 Prepare RFP, SOW, Data Requirements (DRDs), Reference Library	45 days
10 PRT Review of Draft RFP, Incorporate PRT Comments	7 days
11 Issue Draft RFP (DRFP)	0 days
12 Offerors Respond to DRFP	21 days
13 Respond to Industry Questions	30 days
14 Finalize SOW, DRDs, Reference Library	30 days
15 PRT Review of Final RFP, Incorporate PRT Comments	7 days
16 Release Final RFP	0 days
17 Offerors Prepare Proposals	25 days
18 Prepare for Preproposal Conference	5 days
19 Preproposal Conference	0 days
20 Amend RFP as Required	15 days
21 Receive Proposals/Initial Review for Acceptability	0 days
22 Initiate Audits, EEO Clearances, Debarred Check, & VETS 100	1 day
23 Perform Initial Evaluation (40 days for Cost)	25 days
24 Draft Contract Language to Capture Proposal Unique Strengths	25 days
25 Quality Control & Finalize Cost Adjustments	5 days
26 Prepare Competitive Range Presentation	3 days
27 Make Arrangements for Orals (Facilities, Recorder, etc.)	2 days
28 PRT Review of Competitive Range, Letters, & Findings	5 days
29 Schedule Dry Run of Comp. Range	2 days
30 Dry Run of Comp. Range with Procurement Officer	0 days
31 Schedule Comp. Range Presentation to SSA	2 days
32 Comp. Range Presentation to SSA	0 days
33 Notification to Offerors	1 day
34 Work on Final Report	5 days
35 Review of Suggested Changes for Each Model Contract	5 days
36 Offeror Responds to Comp Range Weaknesses/Cost Questions	5 days
37 SEB Evaluates Responses and Prepares for Orals	5 days
38 Oral Discussions / Negotiations	5 days
39 Finalize FPR Requests / Model Contracts	5 days
40 Close Discussions & Request FPRs	0 days
41 Offerors Prepare FPRs, SEB Works on Final Report	8 days
42 Receive FPRs	0 days
43 Perform Final Evaluation	7 days

44 Prepare Final Report & Presentation to SSA	3 days
45 PRT Review of Final Report & Presentation to SSA	5 days
46 Schedule Dry Run of Final Presentation	2 days
47 Dry Run of Final Presentation to Procurement Officer	0 days
48 Schedule Final Presentation to SSA	2 days
49 Final Presentation of Findings to SSA	0 days
50 Review and Approval of Contract	5 days
51 OCC or OGC Prepares Source Selection Statement (SSS)	5 days
52 SSA Signs SSS	0 days
53 Notification Sent to Administrator & HQ Procurement	5 days
54 HQ Press Release	2 days
55 Contract Award	0 days

Attachment B - SEB Security Plan

The overall responsibility for security is assigned to the SEB Chairperson. However, each individual is responsible for the safekeeping of all material that may be assigned or distributed to him/her during the SEB process.

1. Personnel Security

- a. All SEB personnel are expected to be fully conversant with the security provisions in FAR 3.104 and NFS 1803.1, the Standards of Ethical Conduct for Employees of the Executive Branch (5 C.F.R. Part 2635 Regulation), and the implementing Procurement Integrity regulations set forth in sub-part 3.1 of the FAR and NFS. Each SEB participant will be provided a security briefing by the Security Office and/or the SEB Chairperson. SEB members will also submit an OGE Form 450 or SF-278 to the Office of Chief Counsel for review. Copies of all SEB participants' individual certificates and the Chief Counsel memo clearing each SEB Member and Evaluator for SEB participation will be furnished to the SEB Recorder and maintained in the Official SEB file. SEB Members and Evaluators will not be allowed access to the SEB area and materials until cleared from a conflict of interest standpoint by the Office of Chief Counsel.
- b. The evaluation process will be conducted solely within the SEB secure area. It is recommended that personnel entering and leaving the area sign an access list/daily log sheet located at the entrance of the SEB area.
- c. Members are responsible for a security check of their assigned area prior to leaving the building each day.
- d. Any breach of security shall be promptly reported to the Chairperson or Recorder upon its discovery.
- e. An emergency evacuation procedure that ensures the quick evacuation of SEB participants while maintaining SEB security will be developed and prominently posted in the SEB area.

2. Documentation Control

a. Proposals

- (1) Each copy of each proposal will be sequentially numbered and assigned by the Recorder to the SEB personnel. Recipients are responsible for safekeeping all documentation assigned to them until such documentation is officially returned to the custody of the SEB Recorder at the conclusion of the evaluation process.
- (2) Proposals may not be removed from the SEB secure area except as approved by the Chairperson with the CO's concurrence. Each approval to remove material from the SEB area will be documented by a receipt slip from the SEB Recorder. A file containing all such receipts will be maintained as part of the SEB Official File.
- (3) All documents which contain or reveal SEB sensitive information, (except contractor supplied) will be marked as Source Selection Information.

b. Other Evaluation Related Material

(1) In addition to the Offeror Proposals, the following documents will be numbered and controlled by the SEB Recorder:

- All SEB Presentation charts and handouts
- Any Committee reports
- The final RFP (after DRFP comments received but prior to release)
- The Evaluation Plan

(2) Evaluators are responsible for the safekeeping of their evaluation forms and personal notes throughout the evaluation process until turned over to the Recorder for filing or destruction, as appropriate.

(3) Evaluation material will not be removed from the SEB secure area. "Material" will include electronic information/data.

(4) The SEB Recorders' computer may have access to one computer linked to the Internet. Utilization of the Internet will be minimized to only essential activity. Personal laptop computers should not be allowed in the SEB area.

c. Sensitive Material

(1) No material of a sensitive nature will be removed, circulated, or mailed (electronically or otherwise) outside of the SEB secure area without the express permission of the Chairperson. The Chairperson will coordinate distribution of proposals to other Installation and NASA Headquarters, if required.

(2) Reproduction of proposal material is discouraged and, if deemed necessary, will require approval by the Chairperson. Reproduced material will in all respects be treated in the same way as the original.

d. Disposal of Sensitive Waste

All waste material containing evaluation data, criteria, findings, or other Source Selection information will be treated as sensitive and will be disposed of in the sensitive waste containers located within each evaluation room. The SEB Recorder will periodically dispose of this material in the appropriate manner. CDs and diskettes containing sensitive information will be destroyed. The Information Systems Services Office will be contacted to delete sensitive information stored on the hard drive.

e. Log sheets or Records

The following log sheets will be maintained throughout the SEB period and ultimately incorporated in the official contract file:

- SEB Area Physical Access Log (sign-in/sign-out for entering/exiting the SEB secure area).
- Proposal receipt log showing date and time of receipt of Offeror's proposals

- Assignment of proposal log sheet showing assignment of codified proposal volumes to SEB Members and Evaluators for evaluation,
- Special Security Log showing when each SEB Member was provided an SEB security related briefing (either by the Protective Services Office or SEB Chairperson) and when each SEB Member and Evaluator attested in writing as to having read this SEB Security Plan (if applicable).

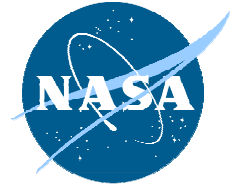
SEB Security Briefing Presentation -

<http://ec.msfc.nasa.gov/hq/library/sourceselection/SEBsecurity.pdf>

Attachment C - SEB Appointment Letter

National Aeronautics and
Space Administration

Headquarters
Washington, DC 20546-0001



June 15, 2007

To: Code TBD/Associate Director for Acquisition
Name: TBD.

From: Director, Headquarters Operations/Source Selection Authority

Subject: Source Evaluation Board for the *[TITLE OF THE PROCUREMENT]*
Acquisition

Pursuant to the NASA FAR Supplement (NFS) 1815.303(B), I hereby appoint the individuals identified below to serve as members of the Source Evaluation Board (SEB) for the *[TITLE OF PROCUREMENT]* Acquisition:

1.1 Voting Members

[NAME], Source Evaluation Board Chair
[NAME], Contracting Officer
[NAME AND OFFICE]

Non-Voting Members

[NAME], *[HQ or Center]* Legal Advisor
[NAME], Cost Analyst
[NAME], Office of Procurement, Advisor

The SEB will conduct its business in accordance with the Federal Acquisition Regulation (FAR) and NASA FAR supplement (NFS) as applicable. All personnel involved in the procurement must comply with the policies and procedures of FAR 15.201, 15.207, and 15.306, and with NFS 1815.207-70 and 1815.306, regarding disclosure of administratively controlled information prior to contract award. The SEB Chairperson is responsible for determining that all SEB members (both voting and non-voting) are fully conversant with the

instructions and requirements of the NFS Part 1815.3 Source Selection. Attention of the SEB Chairperson and each member is particularly directed to NFS Part 1815.370, which describes the SEB designation, organization, and process.

It is emphasized that the SEB report and presentation are the principal tools available to the Source Selection Authority (SSA) to perform a comparative analysis for making the final source selection decision. The findings of the SEB must be documented and presented in sufficient depth to permit the intelligent weighting of alternatives. All proposals will be evaluated and reported in accordance with the solicitation evaluation criteria, FAR and NFS.

Attention of the SEB Chairperson and other members is further directed to FAR 3.104, which prohibits the disclosure of information to individuals not also participating in the same evaluation proceedings. After receipt of proposals, all information contained in the proposals submitted for evaluation will be protected and will be made available only to members (voting and non-voting) of the SEB and to properly designated evaluators on a need-to-know basis. The right to information on a need-to-know basis does not extend to the normal chain of supervision of any member of the SEB or to an individual having technical responsibility for the effort being evaluated except as specifically approved by the SEB Chairperson on a case-by-case basis. Individuals so designated by the SEB Chairperson will be notified, in writing, of the privileged character of proposal information.

If you have any questions or comments, please contact *[NAME]* at (XXX) XXX-XXXX.

SSA: TBD

cc: SEB Members

Attachment D – SEB Process Flow

<http://ec.msfc.nasa.gov/hq/library/sourceselection/SEBreceive.pdf>

SEB Regulation/Topical Location Index:

TOPIC	LOCATION
Adjectival Ratings, Definition & Percentages	NFS 15.305 (a)(3)
Appointment of Evaluators (SEB members)	NFS 1815.303
BAFO's - See Final Proposal Revisions (FPRs)	
Blackout Letter	NFS 1815.201(f)
Clearances	NFS 1803.1 NPG 1900.3
Financial Disclosure Reports	NODIS Library Directives – NPG 1900.3
Committee Members (limited)	NFS 1815.370 (d)(6)
Competitive Range	FAR 15.306 (b), (c) & (d) NFS 1815.306
Contract Pricing	FAR 15.400 NFS 1815.403
CO Responsibilities	FAR 15.303 (c)
Cost Realism Analysis	NFS 1815.304-70 (b)(4) NFS 1815.305
Debriefings, Post-Award	FAR 15.506 NFS 1815.506, PIC 04-11
Debriefings, Pre-Award	FAR 15.505, PIC 04-11
Deficiency	FAR 15.301 FAR 15.407-1 NFS 1815.304-70 (b)(4)
Discussions Prior to Receipt of Proposals	FAR 15.201 NFS 1815.201
Discussions After Receipt of Proposals	FAR 15.306 (a) NFS 1815.306
Discussions Before Competitive Range	FAR 15.306 (b)
Discussions After Competitive Range	FAR 15.306 (d)
Documentation, SEB	FAR 15.308 NFS 1815.308 (1)
Draft RFP	NFS 1815.308 (1)
Evaluation Factors	FAR 15.304 NFS 1815.304 NFS 1815.304-70

SEB Regulation/Topical Location Index continued:

Exchanges with Offerors (<i>see</i> Discussions)	
Ex-Officio Members of SEB	NFS 1815.370 (f)
Final Proposal Revisions	FAR 15.307 (b) NFS 1815.307
Handling of Proposals	FAR 15.207 NFS 1815.207-70
Late Proposals	FAR 15.208 NFS 1815.208
Members (<i>see</i> Non-Voting, Voting & Ex-Officio)	
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